الرد على شبهات متعلقة بالبيعة والإمارة



The Refutation of the Doubts Concerning Bay'ah and Imārah

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(May Allāh free him)

At-Tibyān Publications

Translators' Forward

Verily, all praise is due to Allāh, and may the Peace and Blessings of Allāh be upon His last Messenger, Muhammad Ibn 'Abdillāh; the Seal of the Prophets. To Proceed:

This small treatise was extracted and compiled from two chapters of the book "*Al-'Umdah Fī I'dād Al-'Uddah Lil-Jihādi Fī Sabīlillāhi Ta'āla*" [1] by *Shaykh* 'Abdul-Qādir Ibn 'Abdil-'Azīz, may Allāh, the Most High, free him from prison. We have selected this section for translation [2] and distribution, in light of the current conditions of chaos and division, which has resulted from our nation's lack of organization, coupled with the plotting of the enemies of *Islām*, in the absence of general authority and leadership. Also, it is directed to the youth of the *Islamic* nation (*Ummah*) who are burdened with the task of taking up and carrying the flag in defense of their Religion (*Dīn*) and to salvage the fleeting leadership and commitment to reform, from within the *Islamic* groups and organizations.

We have also selected these portions of the book because they offer a rather decisive and encompassing refutation upon many of the points, which are used to diminish the importance of having

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[1] **Trans. Note: "The Pillar Concerning Making Ready the Preparation for *Jihād* in the Path of Allāh, the Most High."** The first section was from the end of the third chapter, which was called *"The Refutation of the Doubts Concerning Leadership"* and the second section was from the fifth chapter, which was called *"The Oath of the Military Training Camp – Issue: Covenants of Obedience Amongst the Muslims"*. The fifth chapter picks up where the *Shaykh* left off at the end of the third chapter. Therein, he adds further clarification to the matters regarding the Pledge of Allegiance (*Al-Bay'ah*) as well as additional points related to the refutation he made at the end of the third chapter. So although these two sections were not originally side-by-side in the original book, "*Al-'Umdah*", they compliment one another and blend together quite seamlessly, due to their relationship in terms of content and subject matter. We have given this book the name of the end of the third chapter as it encompasses the theme of both chapters.

[2] **Trans. Note:** Please bear in mind that these two sections are from a much larger volume of work and some references alluded to, by the author, are from other sections of the main work "*Al-'Umdah*", and are therefore unavailable.

leaderships in the *Islamic* groups and organizations. So the *Shaykh* (may Allāh free him) corrects these misconceptions and clarifies the correct *Islamic* position regarding the leadership in the absence of a general *Khalīfah* or *Sultān* of the Muslims. And this treatise offers somewhat of an exposition upon the movement of negligence and carelessness, which attempts to disguise itself within the Noble *Salafiyyah* (movement), as well as one of its figureheads. And may Allāh, the Most High, preserve this nation (*Ummah*) from the desires of the heretics and the poison of the treacherous.

As the author points out, there are many groups who are committed to the establishment of the *Islamic* state, which will rule according to the Laws of the *Sharī'ah*, under the authority of a general *Khalīfah*; yet so few of these groups have modeled themselves upon this ideal in terms of leadership, authority and judgment. So how can we hope to become established as an entire nation (*Ummah*) upon these matters while we are unable to do so within even the smallest of groups?!

As for the actual translation, we have attempted to be as precise with the terminology and grammar as possible, while at the same time, remaining fluid within the confines of English sentence structures. However, at times the author refers to some of the vowel points and accents upon the Arabic letters in his explanation of words, which are dependent upon their Arabic definitions. In these instances, we have just used the transliteration of the sounds, as there can be neither translation nor English equivalencies for such passages.

We have also added several explanatory footnotes intended to offer further clarity to some of the points raised by the author. Our footnotes are prefaced with "**Trans. Note:**" in order to differentiate our own from those of the *Shaykh*. We ask Allāh to accept this small effort from us and to bring some clarifications regarding the issues of doubt and confusion surrounding this topic in general.

And all Praise is due to Allāh, the Lord of all the Worlds.

الرد على شبهة متعلقة بالإمارة

The Refutation of a Doubt Concerning Leadership

Author's Introduction

بِسْمِ اللهِ الرحْمَنِ الرحِيم

I have read a book entitled "*Al-Bay'ah Bayn As-Sunnah Wal-Bid'ah 'Ind Al-Jamā'āt Al-Islāmiyyah*", [3] by Mr. 'Alī Ibn Hasan Ibn 'Alī Ibn 'Abdil-Hamīd (Al-Halabī), published by "*Al-Maktabah Al-Islāmiyyah*", in 'Ammān, Jordan, 1406 H. And he wrote this book in order to refute one of the *Islamic* groups, demonstrating how the issue of the Pledge of Allegiance (*Al-Bay'ah*), with them, is an innovation (*Bid'ah*). However, the author was incorrect and was not granted a successful achievement (*Tawfīq*) throughout the majority of the book. And I will mention the refutation of him, concerning the Pledge of Allegiance (*Al-Bay'ah*), within my forthcoming discussion concerning **"The Oath of the Military Training Camp"**, *In Shā' Allāh*, due to its appropriateness in that place. And it would have been more appropriate for the author to select a different point - or points - for the corruptness (*fasād*) of this group (*Jamā'ah*), in order to refute it. And how many are there!?

However, here I will refute his objection to the basic principle of leadership (*Imārah*), within this group and the likes of it, because of the way this ties in with what I mentioned from the obligation (*Wujūb*) of having leadership upon any *Islamic* gathering, which congregates for any benefit, such as in the passed summary. The author stated on page 38-39, from his book,

"The Fifth Doubt: If the leadership during traveling is obligatory, due to his statement, *"If three are in travel, then they should select one of them as an Amīr"* [4] - then wouldn't leadership for a *Da'wah* which

[3] **Trans. Note:** "The Pledge of Allegiance Between the *Sunnah* and Innovation amongst the *Islamic* Groups"

[4] **Trans. Note:** The entire *Hadīth* is narrated by Abū Dāwūd in his "*Sunan*", with two narrations as follows:

intends to return the Religion of Allāh to the land – be even more obligatory, and the covenant (*'Ahd)* and the Pledge of Allegiance (*Bay'ah*), for obedience, be even more befitting? And the answer is from six angles:

1. The leadership for traveling has a clear authentic text, as for this leadership there is no text for it. And the analogy (*Qiyās*) is far fetched, due to the absence of the cause for this ruling (*'Illah*). And it would not be except for a *Mujtahid*, [5] as the Scholars of Fundamentals (*Usūliyyūn)* have stated.

2. The leadership of traveling concludes when it (i.e. the journey) concludes, as opposed to the "unusual leaderships", which are of total obedience.

3. The leadership of travel is all-beneficial, whereas the other "unusual leaderships" divide and corrupt, so this analogy (*Qiyās*) is clearly false!!

4. If a people agree amongst themselves in establishing the *Islāmic* penalties (*Al-Hudūd)* upon the drinker of intoxicants and the fornicator, and such; then would this be acceptable? It is false according to the consensus (*Ijmā'*) of the nation (*Ummah*), both, those who support us and those who oppose us - so this is an analogy (*Qiyās*) which nullifies the earlier analogy (*Qiyās*).

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1. From Abū Sa'īd Al-Khudrī, that the Messenger of Allāh **صلى ا عليه وسلم** said, *"If three go out in travel, then they should select one of them as an Amīr."* ["*Sunan Abū Dāwūd"* (2,608)]
2. And from Abū Hurayrah that the Messenger of Allāh **صلى ا عليه وسلم** said, *"If three are in travel, then they should select one of them as an Amīr."* ["*Sunan Abī Dāwūd*" (2,609)] And *Shaykh* Al-Albānī, may Allāh be merciful to him, said "*Hasan Sahīh"* for both narrations. [Look to "*Sahīh Sunan Abī Dāwūd*" (2/2,272, 2,273), publication "*Maktab At-Tarbiyah Al-'Arabī Li'Duwal Al-Khalīj*", Riyādh 1409 H.]

[5] **Trans. Note:** "*Mujtahid"*; the one qualified to perform deductive reasoning (*Ijtihād)* and relate specific texts, by way of analogy (*Qiyās*) or other methods approved in *Islamic* jurisprudence (*Fiqh*), to issues, which do not have specific, clearly-stated rulings, within *Islamic* law.

5. The leadership of traveling is restricted to particular matters. So it is for organization (only), not for *As-Sam' Wat-Tā'ah* (listening and obeying) in their fullest.

6. As for it being a covenant (*'Ahd)*; this was not from the methodology (*Manhaj*) of the Righteous Predecessors (*As-Salaf As-Sālih*), may the pleasure of Allāh (Most High) be upon them. Rather, their position was absolutely in opposition to that…" – end of the words of Mr. 'Alī Ibn Hasan.

The Refutation Upon the Words of Mr. 'Alī Ibn Hasan:

Number (2): "The leadership of traveling concludes when it (i.e. the journey) concludes…" - is an argument against the author, because the ongoing group is more deserving of leadership, in order to regulate its circumstances, as opposed to the incidental temporary group, such as the group of traveling.

Number (3): "The leadership of travel is all-beneficial, as opposed to other than it…" - are words, which he did not substantiate with any *Sharī'ah*-based evidence, and that is what is obligatory to refer to during a dispute. So from this, it is a statement that is rejected upon him, and a generalization which has no basis in the (*Islamic*) Legislation. And it is his statement that the other leaderships divide and corrupt. (So) we request a *Sharī'ah*-based evidence, not from the current affairs (*Wāqi'*).

Number (5): "The leadership of traveling is restricted to particular matters. So it is for organization (only), not for *As-Sam' Wat-Tā'ah* (listening and obeying) in their fullest" - And this is like the one which preceded it; words which he did not substantiate with any *Sharī'ah*-based evidence. And it is known that listening and obeying is from the necessities of any leadership, whether small or large. And the (Arabic) language (itself) indicates that: "So

the *Amīr* is the one with the command, and he commanded and commands others – with the '*Dhumm*'…" [6]

As for the author restricting it (i.e. authority) to organization only; this is a restriction from him, without any *Sharī'ah*-based evidence. Then, he did not clarify what he meant by "organization". So if he meant – as it comes to mind – that the responsibility of the *Amīr* of traveling, is that he would specify for those who are with him, what they must do on the first day from arrangements and then the second day, and likewise… then we say to the author, that following the *Amīr* – if they do what he arranged for them – then by doing that, they have listened to him and obeyed. So the issue returns to this: that *Imārah* necessitates listening and obeying.

Number (6): "As for it being a covenant ('*Ahd*)…" – we will refute him in the fourth chapter, *In Shā' Allāh*, within the discussion about: **"The Oath of the Military Training Camp".**

Then to proceed, we will refute below, upon the first and the fourth of his aforementioned rebuttals.

The Refutation of the First Objection:

The author stated that **"…the leadership of traveling has a clear text, as opposed to the leadership of the groups, and *Qiyās* is not to be made between the second and the first, due to the absence of the cause for the ruling ('*Illah*), and the analogy (*Qiyās*) would not be (allowed) except for a *Mujtahid*…"** – his words have concluded.

And the refutation against him will be from several angles, so I will state them generally and then explain them:

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[6] "*Mukhtār As-Sihāh*", by Ar-Rāzī
Trans Note: The point here is that the word *Amīr* is related to the word *Imārah*. And if *Amīr* is the one who orders, then it is obvious that the point of ordering is for it to be listened to and obeyed.

The First: That the leaderships of the groups are not dependant upon the *Hadīth* of the leadership of traveling only. Rather, there are additional evidences.

The Second: That the analogy (*Qiyās*) between the leadership of the groups upon the leadership of traveling is a correct analogy (*Qiyās*), due to the common reason for the ruling (*'Illah*).

The Third: That this analogy (*Qiyās*) was mentioned by more than a (single) *Mujtahid*.

As for the first; and it is that there are other evidences proving the Legislation (*Shar'iyyah*) for the leadership of the groups:

The reason for the formation of these groups, which were referred to by the author, is the absence of the *Islamic* Governance and the absence of a (general) *Imām* of the Muslims. So if a group of Muslims were to come together, in the likes of these circumstances, in order to establish the obligations (*Wājibāt*) of the Religion – and this is obligatory in and of itself – then it would be obligatory (*Wājib*) upon this group to select someone, from amongst them, in authority over them.

A. Due to His, the Most High's, statement:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ

O you who believe! Obey Allāh and obey the Messenger, and those of you (Muslims) who are in authority. [7]

And His, the Most High's, statement:

وَلَوْ رَدُّوهُ إِلَى الرَّسُولِ وَإِلَى أُولِي الْأَمْرِ مِنْهُمْ لَعَلِمَهُ الَّذِينَ يَسْتَنْبِطُونَهُ مِنْهُمْ

…and if only they had referred it to the Messenger or to those charged with authority amongst them, the proper investigators would have understood it from them (directly)… [8]

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[7] *An-Nisā'*, 59

So it is a must for the people to have authorities (leaders), who bring together their divisions, take charge of their affairs, and organize their activities, by the evidence of indication (*Dalālat Al-Ishārah*) in these two Verses. And it is not allowed for the Muslims to remain under the authority of the disbelieving (*kāfir*) rulers as long as they are capable to do that, as I mentioned under (the chapter) *"The Conditions for Leadership"*, that there is no *Wilāyah* (authority) for a disbeliever (*kāfir*) over a Muslim.

And everyone who is followed, from the authority (*Sultān*) or the scholars (*'Ulamā'*) or the leaders (*Umarā'*) of these groups or other than them, then he is included in this Verse, as *Shaykh Al-Islām* Ibn Taymiyyah said, "And everyone who is followed; then he is from the **أولي الأمر** *'those charged with authority,'* and it is upon every one of them to order with that which Allāh ordered, and to forbid that which He forbade. And it is obligatory upon everyone who is under his authority, to obey him in obedience to Allāh, and not to obey him in disobedience against Allāh." [9]

B. So if one of the groups is established for the cause of *Jihād* in the Path of Allāh, then there is no reason for us to seek refuge in the analogy (*Qiyās*) of the leadership of travel, as long as we have a specific text in the matter. This is because analogy (*Qiyās*) is deductive reasoning (*Ijtihād*) and there is no deductive reasoning (*Ijtihād*) in the presence of a text. And the intended text, is the *Hadīth* of the Battle of *Mu'tah* and the companions' selection of Khālid Ibn Al-Walīd (may Allāh be pleased with him) as their *Amīr*, as I mentioned in the fourth matter, within this chapter, so review it. And here are (some of) the statements of the scholars (*'Ulamā'*) in the comprehension (*Fiqh*) of this *Hadīth*:

Ibn Hajar said, "And in it, is the permissibility of choosing an *Amīr*, during war, without him being appointed as an *Amīr* – in other words – without a specific command from the *Imām*. At-Tahāwī said, 'This is a fundamental, which extracted from it is that it is

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[8] *An-Nisā'*, 83

[9] "*Majmū' Al-Fatāwā*" (28/170)

upon the Muslims, to put forward a man, if the *Imām* is absent, to take his place until he returns." **[10]** And Ibn Hajar also said, "Ibn Al-Munīr said, 'It is understood from the *Hadīth* of this chapter, that whoever is identified for authority, in times when it is not possible to return to the *Imām*, that the authority remains to that individual according to the *Sharī'ah*, and it is obligatory (*Wājib*) to obey him as a ruling.' This is what he stated and it is not hidden that this is when those present agree upon him." **[11]**

And Ibn Qudāmah Al-Hanbalī said, "So if the *Imām* does not exist, then the *Jihād* is not delayed, because its benefit is lost by delaying it, and if spoils (*Ghanīmah*) are captured, then its people distribute it according to the (*Islamic*) Legislation (*Ash-Shar'*). *Al-Qādhī* said, 'And the distribution of the slave-girls is delayed until an *Imām* emerges due to the protection of chastity. So if the *Imām* sends an army and appoints for them an *Amīr*, then he is killed or dies, then it the army should put one from amongst them as an *Amīr*, just as the companions of the Prophet صلى ا عليه وسلم did in the army of *Mu'tah*, when their *Amīrs* whom the Prophet صلى ا عليه وسلم appointed were killed, they put as an *Amīr* over them, Khālid Ibn Al-Walīd (may Allāh be pleased with him). So this (news) reached the Prophet صلى ا عليه وسلم and he was pleased with their decision and approved their opinion and named Khālid, on that day, 'The Sword of Allāh' (*Sayf-Allāh*)."**[12]**

And this *Hadīth*, and that which is narrated from its comprehension (*Fiqh*), is a text in the area of dispute in this issue. And it clarifies the obligation of leadership upon the groups which are working for the Religion and *Jihād*. And there is no need for us to use the analogy (*Qiyās*) upon the *Hadīth* of the leadership of traveling, despite the correctness of this analogy (*Qiyās*), as I will mention, *In Shā' Allāh Ta'āla*.

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[10] "*Fat'h Al-Bārī*" (7/513)
[11] "*Fat'h Al-Bārī*" (6/180)
[12] "*Al-Mughnī Wash-Sharh Al-Kabīr*" (10/374)

And someone might say that the *Hadīth* of *Mu'tah* cannot be used for our condition nowadays because, in *Mu'tah*, the *Imām* – the Prophet صلى ا عليه وسلم – (existed but) was absent. Then when they returned to him, he approved their action. But today, there is no *Imām* whatsoever, so the leadership of these groups is not correct due to the non-existence of an *Imām*. Yet, we affirm the correctness of what we have concluded, from the using of this *Hadīth* as evidence. This is because the common reason for the ruling (*'Illah*) between both these situations is the formation of a group of the Muslims for a common activity, which is *Jihād*, while being isolated from the *Imām*, whether the *Imām* is (merely) absent or non-existent. This is because, in both situations, he is absent from their activities. And what is attained from (studying) the life of the Prophet صلى ا عليه وسلم at that time, was his approval of their action (The *Sunnah* of Approval); and this (approval) is a Legislation (*Tashrī'*), which is not attained from anyone after him صلى ا عليه وسلم, whether he is an *Imām* or other than that. And we direct the one who says this saying to the words of Ibn Al-Munīr, which have passed, as he said, "…in times when it is not possible to return to the *Imām*…" And this inability includes both the absence of the *Imām* or his non-existence. And the words of Ibn Qudāmah are even clearer, as he said, **"So if the *Imām* does not exist, then the *Jihād* is not delayed…"**

And the result of the statement of this person (who stipulates the presence or existence of an *Imām*), is that the *Jihād* in Afghanistan [13] or the likes of it, is not allowed and is false, because the groups and parties, which are fighting, are not *Sharī'ah*-based, due to the invalidity of their leadership. And this implies that whoever went forth to this *Jihād* under these leaderships; then he is sinful and that it is upon the Muslims to stand with their hands bound, while they watch their homes, women and wealth being seized, until an *Imām* descends upon them from the sky. So would any Muslim say this? Or would anyone who possesses the least bit of intellect say this?

[13] **Trans. Note:** The *Shaykh* is referring here to the *Jihād* in Afghanistan against the Russians and the Communists, not the time of the Tālibān, as this book was written before the emergence of the Tālibān.

And whoever has any trace of this doubt left in him, then the next evidence will remove it, *In Shā' Allāh Ta'āla*.

C. From Jābir Ibn 'Abdillāh, may Allāh be pleased with him, who said, "I heard the Prophet صلى ا عليه وسلم saying, *'There will not cease to be a group from my nation (Ummah), fighting upon the Truth, dominant, until the Day of Resurrection.' He said, 'Then 'Īsā Ibn Maryam* صلى ا عليه وسلم *will descend, and their Amīr will say, 'Come lead our prayer.' So he will say,* ***'No. Verily, you are Amīrs upon one another; an honour from Allāh for this nation (Ummah).'*** *'"* [14]

So this is a clear, unambiguous text from the Prophet صلى ا عليه وسلم, which clarifies (the following):

1. The eternality and remaining of "The Victorious Party" (*At-Tā'ifah Al-Mansūrah*), which fights upon the Truth, until the descending of 'Īsā, عليه السلام, and the sending of the Pleasant Wind (*Ar-Rīh At-Tayyibah*), which takes the souls of all the Believers. [15]

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14 Narrated by Muslim in "*Kitāb Al-Īmān*" (2/193)
Trans Note: Also narrated by Ahmad with a similar phrasing.
15 (From) the *Hadīth* of 'Abdullāh Ibn 'Amr and 'Uqbah Ibn 'Āmir – narrated by Muslim in the end of "*Kitāb Al-Imārah*" (13/68)
Trans. Note: The *Hadīth* in its entirety is as follows:

From 'Abdur-Rahmān Ibn Shumāsah Al-Mahrī who said, "I was with Maslamah Ibn Mukhallad, and with him was 'Abdullāh Ibn 'Amr Ibn Al-'Ās. Then 'Abdullāh said, 'The Hour will not come except upon the worst of creation. They are worse than the people of *Jāhiliyyah*. They will not supplicate to Allāh for anything except that He rejects it upon them.' So while they were like that, 'Uqbah Ibn 'Āmir came in and Maslamah said to him, 'O 'Uqbah, listen to what 'Abdullāh says.' So 'Uqbah said, 'He is more knowledgeable, but I have heard the Messenger of Allāh صلى ا عليه وسلم say, *'There will not cease to be a group from my Ummah, fighting upon the Command of Allāh. They will overpower their enemies and will be unharmed by those who oppose them until the Hour arrives on them, while they are upon that.'* So 'Abdullāh said, 'Correct. Then Allāh will send a wind, with the scent of musk and its feeling is the feeling of silk and it will not leave a soul, which has the weight of a seed of *Īmān* in his heart, except that it takes it. Then the worst of the people will remain and upon them the Hour will arrive.'"

2. The correctness and the legitimacy in the (*Islamic*) Legislation (*Shar'iyyah*) of the leadership upon this party (*Tā'ifah*), upon the tongue of our Prophet صلى ا عليه وسلم as he said, ***"…then their Amīr will say…"*** and upon the tongue of 'Īsā, عليه السلام, ***"Verily, you are Amīrs upon one another…"*** and this – in other words, the correctness of leaderships – should not be held only upon the last of this party (*Tā'ifah*) at the time of the descending of 'Īsā, عليه السلام, and not prior to that, from the earlier eras. This is because, the attributing of an *Amīr* to the party (*Tā'ifah*): *"…their Amīr…"*, while clarifying the description of this party (*Tā'ifah*) as being continuous: *"There will not cease to be… their Amīr,"* - So if it is affirmed that there will be times when the Muslims do not have a Greater *Imām* (*Khilāfah*) and the correctness and eternality of the leadership of The Victorious Party (*At-Tā'ifah Mansūrah*) is affirmed, then the leadership upon this party (*Tā'ifah*), in times where there is no *Imām*, is correct, *In Shā' Allāh*.

3. The way in which this leadership is placed upon this party (*Tā'ifah*) by selecting one of them in authority upon the rest of them: ***"Verily, you are Amīrs upon one another; an honour from Allāh for this nation (Ummah)."*** So this is from that which Allāh has honoured the Muslims with. And this complies completely with the action of the companions (*Sahābah*) on the Day of *Mu'tah* and it indicates that this action – the Muslims placing one of them in authority upon them – is not limited to the time of the Prophet صلى ا عليه وسلم due to the continuation of this ruling until the descending of 'Īsā, عليه السلام.

D. His, the Most High's, statement:

أَلَمْ تَرَ إِلَى الْمَلَإِ مِنْ بَنِي إِسْرَائِيلَ مِنْ بَعْدِ مُوسَى إِذْ قَالُوا لِنَبِيٍّ لَهُمُ ابْعَثْ لَنَا مَلِكًا نُقَاتِلْ فِي سَبِيلِ اللهِ قَالَ هَلْ عَسَيْتُمْ إِنْ كُتِبَ عَلَيْكُمُ الْقِتَالُ أَلا تُقَاتِلُوا قَالُوا وَمَا لَنَا أَلا نُقَاتِلَ فِي سَبِيلِ اللهِ وَقَدْ أُخْرِجْنَا مِنْ دِيَارِنَا وَأَبْنَائِنَا فَلَما كُتِبَ عَلَيْهِمُ الْقِتَالُ تَوَلَّوْا إِلا قَلِيلًا مِنْهُمْ وَاللهُ عَلِيمٌ بِالظالِمِ

Have you not thought about the group from the Children of Isrā'īl after (the time of) Mūsā (Moses)? When they said to a Prophet of theirs, "Appoint for us a king and we will fight in the Path of Allāh." He said, "Would you then refrain from fighting, if fighting was prescribed for you?" They said, "Why should we not fight in the Path of Allāh while we have been driven out of our homes and our children (families have been taken as captives)?" But when fighting was ordained upon them, they turned away, all except a few of them. And Allāh is All-Aware of the *Thālimīn* (wrong-doers). [16]

And this Verse – in my opinion – is from the clearest evidences upon the obligation (*Wujūb*) of the leadership for the purpose of *Jihād*, because this was a defeated nation (*Ummah*), expelled from its homes, which desired *Jihād*. So they began by requesting a leader, beneath which, they would fight under his authority. So Allāh, the Powerful, the Mighty, sent for them Tālūt, as a King. And this was an approval from Allāh, the Powerful, the Mighty, of the correctness of their request. And this is our condition today. Muslims who are weak and have no supremacy (*'Izzah*), except by *Jihād*, as in the *Hadīth* of *Al-'Īnah*. And from the necessities of *Jihād* is the choosing of an *Amīr*. As for the method of choosing him in this time, it would be from the agreement of the group (*Jamā'ah*) upon him like in the *Hadīth* of the Battle of *Mu'tah*, and the *Hadīth* of Jābir Ibn 'Abdillāh (may Allāh be pleased with him) which has passed: *"Verily, you are Amīrs upon one another; an honour from Allāh for this nation (Ummah)."*

E. The *Imām* of the Two Sacred Mosques (*Al-Haramayn*), Al-Juwaynī, said, "And if the people do not come across anyone, whom they are satisfied with, to take charge of their affairs - then it is impossible that they would be ordered to refrain from that which they are able to do of repelling the corruption (*fasād*), because if they refrain from that which is possible, then the corruption (*fasād*) grows to cover the countries and mankind…" – until his saying – "… and some of the scholars (*'Ulamā'*) have stated that if a (particular) era is lacking a governor (*Sultān*), then it is the

[16] *Al-Baqarah*, 246

responsibility upon the intelligent ones in each city, along with the residents of every village; to put forward the people of vision and intelligence along with the people of intellect and strong-mindedness, who they will obey in their directives and orders and avoid that which they forbid and prohibit. Because, if they do not do so, they will hesitate in the performance of the duties and they will differ when the issues arise." **[17]**

And when the Tartars advanced to battle Ash-Shām, and the governor (*Sultān*) was delayed in the defense of Ash-Shām, *Shaykh Al-Islām* Ibn Taymiyyah traveled to him in Egypt to prompt him to support Ash-Shām. And he said to the *Sultān* and his aides, 'If you turn away from Ash-Shām and its defense, we will choose for it a *Sultān* who will encompass it and protect it and seize it during time when security is present.' And he remained there until the armies were deployed to Ash-Shām, then he said to them, 'Even if you were not the rulers (*Hukkām*) of Ash-Shām nor its Kings, yet its people sought your support, then it would be obligatory (*Wājib*) upon you to support them. So how about when you are its rulers and *Sultāns* and they are your flock and you are responsible for them?!' And he continued to increase their anxiety and guaranteed them the victory in this attack, so they went out to Ash-Shām. Then when the armies reached Ash-Shām, the people became extremely happy after they had despaired over themselves, their families and their wealth." **[18]**

I say: So Al-Juwaynī and Ibn Taymiyyah agreed that if a country is lacking a *Sultān*, the people themselves put forward someone for them to obey his declarations and commands. And this also applies to the responsibility of every group (*Jamā'ah*) or party (*Tā'ifah*), which has agreed to establish the matters of the Religion, in the absence of the *Imām* of the Muslims.

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[17] "*Ghiyāth Al-Umam*" (Pg. 387-388), published by 1401 H. with the *Hadīth* verification (*Tahqīq*) of Dr. 'Abdul-'Athīm Ad-Dīb

[18] "*Al-Bidāyah Wan-Nihāyah*", by Ibn Kathīr, "The Events in the Year 700 H." (14/15)

And as for the Second Point, and this is that the analogy (*Qiyās*) between the leaderships of the groups, upon the leaderships of traveling - this is a correct *Qiyās*, due to a common reason for the ruling (*'Illah*).

So we say that *Qiyās* is the affirming of a ruling (*Hukm*), like the ruling (*Hukm*) of the basis (*Asl*) in the branch (*Fara'*), with a common reason for the ruling (*'Illah*). [19] And the basis (*Asl*) is the incident which the ruling (*Hukm*) was narrated, through a *Sharī'ah*-based text, and the branch (*Fara'*) is that which there is no *Sharī'ah*-based text narrated in its ruling (*Hukm*) and the reason for its ruling (*'Illah*) is the apparent clause (*Wasf*), with the appropriate criteria, which is extended upon that which the ruling (*Hukm*) of the basis (*Asl)* was founded. And with the affirmation of this clause (*Wasf*) within the branch (*Fara'*), then upon it is affirmed like that of the ruling (*Hukm*) of the basis (*Asl)*. [20]

And with respect to our topic, the basis (*Asl*) for which there is a text in its ruling (*Hukm*) is the joining of three people in travel. And the ruling (*Hukm*) is that it is an *obligation* (*Wujūb*) (to set up a) leadership (it is an *obligation* to choose one of them as an authority

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[19] "*Sharh At-Talwīh 'Alā At-Tawdhīh*" (2/52), by At-Taftāzānī

[20] **Trans. Note:** It is extremely difficult to convey the meaning of these types of passages, which contain so much jurisprudence and terminology etc., while remaining precise to the meaning of the Arabic words. What is meant by the author's words above, is this: In order to make a correct analogy (*Qiyās*) between the ruling in a particular matter, which has a clear text for it (i.e. the basis or *Asl*), and another issue, which is an extension of that matter (i.e. a branch or *Fara'*), then these two matters must have a shared or common reason for their ruling (i.e. cause or *'Illah*). In this way, if a matter, which does not have a specific text regarding its ruling, shares a common element for that ruling within another issue, which does have a specific ruling in the *Sharī'ah*, then this ruling is also applied to that matter. For example, if we look to the issue of speaking disrespectfully to one's parents in His, the Most High's statement: **"And that you be dutiful to your parents. If one of them or both of them attain old age in your life, say not to them a word of disrespect, nor shout at them but address them in terms of honour."** (*Al-Isrā'*: 23) Based on this, we can say that hitting one's parents is also prohibited, due to the common reason for ruling which is present, which is the harm. Therefore they take the same ruling (*Hukm*) of prohibition.

over them). And the branch (*Fara'*) is the leadership of the groups. So, is the reason for the ruling (*'Illah*), in the ruling of the basis (*Asl*) present within its branch (*Fara'*), so that the same ruling (*Hukm*) is affirmed for it, or not? So the investigation is now: What is the reason for the ruling (*'Illah*) in the leadership of traveling? And that is what the author (i.e. 'Alī Al-Halabī) did not mention.

And the truth is that the reason for the ruling (*'Illah*) is confirmed by a text in the same *Hadīth*, yet it requires verification of the reason, due to the multiple clauses (*Awsāf*) for which the ruling (*Hukm*) is based upon, within the *Hadīth*. So we must specify which of these clauses is the one which affects the ruling (*Hukm*).

And the clauses, for which the ruling was based upon in the *Hadīth* of the leadership for travel, are two: traveling, and the coming together of three people for a common purpose.

So if we confirm, with the text, that the leadership for traveling is not obligatory (*Wājib*) upon those who are less than three, such as the traveling of two people, then the clause, which affects the ruling (*Hukm*) would be its number – the three – and not the traveling. This is because of the presence of the clause (*Wasf*) of traveling in the traveling of two people, yet there is a difference in the ruling (*Hukm*); that being the obligation (*Wujūb*) of leadership. So if the traveling (itself) were the reason for the ruling (*'Illah*), then the ruling of leadership would (also) be obligatory (*Wājib*) for the traveling of two people. So from that, we see that the ruling – regarding leadership – is based upon the number – three as a minimum – and not upon the traveling.

So what are the texts, in which there is the traveling of less than three persons, wherein the leadership was not obligatory (*Wājib*)?

We say: From them is that which Al-Bukhārī narrated in "*Kitāb Al-Jihād*": "**Chapter: The Traveling of Two** – From Mālik Ibn Al-Huwayrith who said, 'I departed from the Prophet صلى ا عليه وسلم so he said to us; to me and my companion, '*Pronounce the call for prayer (Al-Athān) and pronounce the time of prayer (Al-Iqāmah) and the eldest*

of you two should lead the both of you in prayer.'" [21] So this *Hadīth*; in it was found the clause (*Wasf*) of traveling, but the clause of the number – that being three – was not found. And the ruling (*Hukm*) of leadership was (also) not found in it. In other words, the Messenger صلى ا عليه وسلم did not order either of them as an *Amīr* and did not leave this up to them - and it is not allowed to delay clarification beyond the necessary time. So this indicates that the leadership, as a ruling (i.e. it being obligatory), is based upon the number – three persons as a minimum – and not based on the traveling.

And from that which indicates that the leadership is linked to the number and not the traveling, is the statement of the Prophet صلى ا عليه وسلم to Abū Tharr (may Allāh be pleased with him), *"O Abū Tharr, I see that you are weak and I love for you what I love for myself. Do not be placed as an Amīr over two (people) and do not take responsibility for the wealth of an orphan."* [22] So the statement of the Prophet صلى ا عليه وسلم, *"Do not be placed as an Amīr over two (people)..."* indicates that the leadership is obligatory (*Wājib*) upon the three or greater than that. So this strengthens (the opinion) that the obligation of the leadership, in the *Hadīth* of traveling, is linked to the number and not to the traveling. He صلى ا عليه وسلم said, *"If you are three in travel, then select as an Amīr…"* So leadership is not an *obligation* except upon (a group of) three or more. And this is strengthened – the relationship of leadership with the number; the least of which is three – with what was narrated by Al-Bukhārī from Usāmah Ibn Zayd (may Allāh be pleased with him, who said), "And I am not the one who would say to a man, after he was an *Amīr* upon (even) two men, 'You are good,' after I heard the Messenger of Allāh صلى ا عليه وسلم say, '*A man will be brought and thrown into the Fire and ground up, like a donkey grinds his molars, so the people of the Fire will walk around him and say, 'O so-and-so, didn't you used to command the good*

[21] *Hadīth* #2,848
[22] Narrated by Muslim

and forbid the evil?' So he will say, 'I used to command the good but not do it (myself) and I used to forbid the evil and then do it (myself)." [23]

And Usāmah (may Allāh be pleased with him) used to negate with this, the accusations against him, of cozying up (to the *Sultān*), as it comes in the explanation of the *Hadīth*. [24] And the evidence (*Shāhid*) from his words, is his statement, *"… say to a man, after he was an Amīr upon (even) two men…"* he demonstrated the least (number) for which leadership is obligatory (*Wājib*), and that is three; an *Amīr* and two followers. Just like the language strengthens what we have arrived at in conclusion, from the link of leadership with the number and not the traveling, as Ar-Rāghib Al-Asfahānī has stated, "It is said, '*Amira Al-Qawm*' with a *Hamzah*, *Maftūha*, and a *Mīm*, *Maksūrah* and a *Rā*, *Maftūha*: 'They have become many,' and that is because, the people; when they become many, then they become those of an *Amīr*, because they must have a leader to lead them. And for this (reason), the poet said, 'It is not befitting for a people to be in chaos, without a chief for them." [25]

From what has preceded, we reach two realities:

The First: That having a leadership during traveling is not obligatory (*Wājib*) upon less then three. So it is not obligatory upon the traveling of two. Thus, leadership, therefore, is linked to the number and not to the travel.

The Second: The minimum number, upon which leadership is obligatory, is three, due to the *Hadīth* of Abū Tharr (may Allāh be pleased with him), *"…do not be placed as an Amīr over two (people)…"* and due to the *Hadīth* of Usāmah Ibn Zayd (may Allāh be pleased with him), *"… to a man, after he was an Amīr upon (even) two men…"* And this number is the same one which was mentioned in the *Hadīth* of the leadership of traveling.

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[23] *Hadīth* #7,098
[24] Refer to "*Fat'h Al-Bārī*" (13/51-52).
[25] Refer to "*Al-Mufradāt Fī'Gharīb Al-Qur'ān*", by Ar-Rāghib, below the word "*Amir*".

So this leadership is linked to the number and not to the traveling and this is the clarification of its cause.

Then, if we conclude that the reason for the ruling (*'Illah*) is the number – in other words, the coming together of three (or more) people upon a purpose which unites them – then verily, this reason for the ruling (*'Illah*) is affirmed, without a doubt, in the rest of the groups (as well). So the analogy (*Qiyās*) regarding the leadership of the groups can be made upon the leadership of traveling.

So if it is asked, "What is the wisdom (*Hikmah*) behind mentioning traveling in the *Hadīth*?" Then we say, "The travelers are cut off, in their journey, from the eyes of the *Imām* or the authority of the city which controls the affairs of the residents. Therefore, it is obligatory (*Wājib*) upon the travelers to select an *Amīr* from amongst themselves, who will control their affairs. So being cut off from the eyes of the *Imām* – during traveling or other than that – is from the (things which) calls to raise an *Amīr*. And this could be a second reason (*'Illah*), for the ruling (*Hukm*) if only this were not met with a problem, due to the presence of the (same) clause (*Wasf*) of being cut off from the eyes of the *Imām*, in the traveling of two, with the absence of the ruling (*Hukm*) for the obligation of leadership. [26] And in any case, this clause – that of being cut off from the eyes of the *Imām*, due to his non-existence nowadays – (this clause) is present with respect to the contemporary *Islamic* groups; (so this clause is from that) which increases the emphasis for the obligation of leadership upon them.

And the Third Point, that this analogy (*Qiyās*) has been approved by more than a (single) *Mujtahid* as I mentioned in the beginning

[26] **Trans. Note:** The point of the author is that we could say that being cut off from the eyes and authority of the *Imām* during travel would be a second reason for the ruling (*'Illah*) – but, that if this were true, then two people traveling would also be cut off, yet it is established that it is not necessary for them to select an *Amīr*. So this could not be the single reason for this leadership, because if this were the case, then we would have to say that two people who are traveling must select one of them as the *Amīr*. However, this aspect could be one of the benefits for the reason, along with the minimum number of three, as mentioned in the aforementioned *Ahādīth*.

of this chapter, the matter of leadership being obligatory (*Wājib*). And this was indicated by:

1. *Imām* Ash-Shawkānī said, when he used the *Hadīth* of the leadership of traveling as an evidence for the obligation of establishing the authority of judgment (*Qadhā'*) and the leadership and other things. And he did not mention in this chapter any *Hadīth* other than it. And he made the analogy (*Qiyās*) for these authorities, upon the leadership of traveling. So he said, after mentioning the narrations of the *Hadīth* of the leadership of traveling, "… and in it, there is evidence that it is legislated for every amount, which has reached three or more, to select one of them as an *Amīr* upon them, because in that, there is protection from disputes, which lead to separation. So without selecting an *Amīr*, each person follows his own opinion and does that which complies with his desire, so they destroy themselves. But with the selection of an *Amīr*, the differences decrease and the words unite. So if this is legislated for three, who are in the wilderness of the Earth, or traveling - then its legislation for a number greater than that, who live in the cities and villages – and who are in need of protection from wrongdoing, and judgments between their disagreements – is more deserving and more befitting. And in that, there is an evidence for the saying of those who said, 'It is obligatory (*Wājib*) upon the Muslims to raise leaders, authorities, and rulers." [27]

   So he mentioned that the ruling – the ***obligation*** of leadership – is tied to the number, as he said, "… it is legislated for every amount, which has reached three or more, to select one of them as an *Amīr* upon them…" And Ash-Shawkānī mentioned that this is an obligation upon the residents (i.e. non-travelers) from the point of indicating the more (in need) by mentioning the least (in need).

2. And also, I mentioned in the beginning of the chapter, the using of the *Hadīth* of the leadership of traveling, by Ibn Taymiyyah as an evidence for the obligation of leadership in all the other types of

[27] "*Nayl Al-Awtār*" (9/157)

gatherings. So he is stating with that, that the reason for the ruling (*Illah*) of leadership is the gathering. And he has mentioned this in more than one place in his *Fatāwā*, as he said in the essay "*Al-Hisbah*", "… and all of the Children of Ādam; their benefits are not attained in this worldly life (*Dunyā*) nor in the Hereafter (*Ākhirah*), except by coming together, collective efforts and giving (mutual) support. So the collective efforts and the support are to gain benefits, and (also) the support is to repel the harms. And due to this, it is said that mankind is urban-oriented by nature. So when they come together, they will certainly perform activities, and seek benefits through them, and (there will be) matters, which they will avoid due to what they contain of harm. And they will be obedient to he who commands these goals and forbids these harms. So it is a must for the Children of Ādam to have obedience to a commander and a forbidder…" – until he said – "… and for this reason, the Prophet **صلى ا عليه وسلم** ordered his nation (*Ummah*) to take 'guardians of the authority' over them. And he ordered the guardians of the order to return the trusts to their owners and that if they judge between the people, to judge with justice. And he ordered them to obey the guardians of the order, in the obedience of Allāh, the Most High, as in "*Sunan Abī Dāwūd*", from Abū Sa'īd (may Allāh be pleased with him), that the Messenger of Allāh **صلى ا عليه وسلم** said, *'If three go out in travel, then they should select one of them as an Amīr.'* And also in his "*Sunan*", from Abū Hurayrah (may Allāh be pleased with him) is similar to that. And in the "*Musnad*" of *Imām* Ahmad from 'Abdullāh Ibn 'Amr (may Allāh be pleased with him) that the Prophet **صلى ا عليه وسلم** said, *'It is not permissible for three, who are in the wilderness of the Earth, except that they select one of them as an Amīr.'* So if he made it obligatory upon the smallest of groups and the briefest of gatherings, to select one of them as an *Amīr*, then this is an indication that this is ***obligatory*** for that which is greater than it." [28]

And he (may Allāh be merciful to him) said in the essay "*As-Siyāsah Ash-Shar'iyyah*", "It is obligatory to know that the 'guardianship of

[28] "*Majmū' Al-Fatāwā*" (28/62-65)

the affairs' of the people, is from the greatest obligations (*Wajibāt*) in the Religion; furthermore, there is no establishment of the Religion nor the worldly life (*Dunyā*) without it. This is because the benefits and interests (*Maslahah*) of the Children of Ādam are not achieved except through the coming together for the needs of one another - and it is a must for them to have, in this uniting, a chief, to the extent that the Prophet **صلى ا عليه وسلم** said, *'If three go out in travel, then they should select one of them as an Amīr.'* – narrated by Abū Dāwūd from the *Hadīth* of Abū Sa'īd and Abū Hurayrah, may Allāh be pleased with them.

And *Imām* Ahmad narrated in "*Al-Musnad*" from 'Abdullāh Ibn 'Amr, may Allāh be pleased with him, that the Prophet **صلى ا عليه وسلم** said, *'It is not permissible for three, who are in the wilderness of the Earth, except that they select one of them as an Amīr over them.'* So he **صلى ا عليه وسلم** made it obligatory (*Wājib*) to select one as an *Amīr*, in the small group departing for travel - implying by that, all the other types of gatherings. And because Allāh, the Most High, obligated commanding the good and forbidding the evil, and this is not achieved except with strength and leadership. And like that, is the rest of what He obligated from *Jihād* and justice and establishing the *Hajj* and the Friday prayers and the *A'yād* (celebrations) and the defense of the oppressed and establishing the *Islamic* penalties (*Al-Hudūd*) - these are not achieved except with strength and leadership." [29]

I say: So look to the statement of *Shaykh Al-Islām*, *"… implying by that, all the other types of gatherings."* And he repeated this in the remaining passages. So he is clearly stating that leadership is for the coming together of the gatherings and not for the 'traveling' itself.

And these are two *Mujtahids* – Ibn Taymiyyah and Ash-Shawkānī – in which there is no disagreement, among the Muslims, concerning their qualification as *Imāms*, and their status in knowledge. They both clearly stated that the reason for this ruling (*'Illah*) for the

[29] "*Majmū' Al-Fatāwā*" (28/390)

leadership, is the gathering. And they both made the analogy (*Qiyās*) for the leadership of the rest of the types of gatherings upon the leadership of traveling, and that this was from the point of **'indicating the more (in need) by mentioning the least (in need)'**. And adding to what has preceded, is that this *Hadīth* is narrated by Abū Dāwūd in "*Kitāb Al-Jihād*", within his "*Sunan*", and this (the fact that it is narrated in *Kitāb Al-Jihād*) contains an indication for that which we have concluded.

And with this, we would have completed the three points from the refutation of the first of the objections of the author of the book "*Al-Bay'ah*" (i.e. 'Alī Al-Halabī).

A Point of Benefit: Concerning the Obligation of (Being Part of a) Group (*Jamā'ah*) to Support the Religion in this Era.

I mentioned in the beginning of my discussion regarding the refutation of this doubt related to leadership; a statement that I would like to substantiate with evidence. And this is my statement: "… verily in the absence of the *Islamic* Governance and the *Khilāfah*, if a group of Muslims were to come together in order to establish the obligations (*Wājibāt*) of the Religion – then this is obligatory in and of itself…"

And the clarification of this is that the *Sharī'ah*-based obligations such as *Jihād* and commanding the good and forbidding the evil and the likes of that; no evidence has been established to indicate that these (responsibilities) fall off of the Muslims due to the non-existence of the *Imām*. Rather, Ibn Qudāmah has pointed this out as he stated, ***"So if the Imām does <u>not exist</u>, then the Jihād is not delayed…"*** And these obligations are like what Ibn Taymiyyah said in his aforementioned discussion: *"… this is not achieved except with the strength and the leadership."* I say: And from the strength is the group (*Jamā'ah*). He, the Most High, said:

وَاعْتَصِمُوا بِحَبْلِ اللهِ جَمِيعًا وَلَا تَفَرَّقُوا

And hold fast, all of you together, to the Rope of Allāh (i.e. this *Qur'ān*), and be not divided among yourselves… [30]

And He, the Most High, said:

وَلَا تَنَازَعُوا فَتَفْشَلُوا وَتَذْهَبَ رِ ُكُمْ

…and do not dispute (with one another) lest you lose courage and your strength departs… [31]

And the command for the group (*Jamā'ah*) has been clearly narrated in the statement of the Messenger of Allāh صلى ا عليه وسلم, *"And I order you with five (orders), which Allāh has ordered me with; the Group (Al-Jamā'ah), the Listening and Obeying (As-Sam' Wat-Tā'ah), the Migration (Al-Hijrah) and Al-Jihād."* [32]

Yet despite that, some have taken the opinion that the coming together of Muslims in a group (*Jamā'ah*), in order to establish the obligations (*Wājibāt*) of the Religion, in this era – as there is no *Imām* for the Muslims – is not obligatory. Instead, (they say) the obligation is seclusion and that the individual should be concerned with himself. And this saying leads to the uprooting of *Islām* and its people. And they have a doubt (*Shubhah*) in this saying of theirs, as they have used as evidence, the *Marfū' Hadīth* of Huthayfah Ibn Al-Yamān (may Allāh be pleased with him), "But, if they have no group (*Jamā'ah*) and no leader (*Imām*)?' He صلى ا عليه وسلم said, *"Then avoid all those sects (Al-Firaq)…"* [33]

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[30] *Āl-Imrān*, 103

[31] *Al-Anfāl*, 46

[32] Narrated by Ahmad and At-Tirmithī, who authenticated it from Al-Hārith Al-Ash'arī. **Trans. Note:** Declared "*Hasan*" by Ibn Kathīr in his *Tafsīr* (1/87), and "*Hasan Gharīb*" by Al-Baghawī in "*Sharh As-Sunnah*" (5/304). Other narrations wherein the order of the five things are switched were declared "*Sahīh*" by Ibn Al-Qayyim in "*I'lām Al-Muwaqqi'īn*" (1/208), Al-Albānī in "*Sahīh At-Tirmithī*" (2,298), and in "*Sahīh At-Targhīb Wat-Tarhīb*" (552), and Al-Wādi'ī declared it "*Sahīh*" on the conditions of Muslim in "*Al-Jāmi' As-Sahīh*" (6/265).

[33] Agreed Upon (i.e. Narrated by Al-Bukhārī and Muslim)

I say: And the *Hadīth* is precisely as follows, from Huthayfah Ibn Al-Yamān (may Allāh be pleased with him) who said, "The people used to ask the Messenger of Allāh صلى ا عليه وسلم about the good, and I used to ask him about the evil, due to my fear that it might reach me.'

"So I said, 'O Messenger of Allah, verily we were in Ignorance (*Jāhiliyyah*) and evil and then Allāh came to us with this goodness (*Khayr*). So after this goodness, will there be any evil (*Sharr)*? He said, *'Yes.'* I said, 'And is there, after that evil, any goodness?' He said, *'Yes, and in it is a Dakhan.'* [34] I said, 'And what is its *Dakhan* (impurity)?' He said, *'There will be some people who will lead (people) according to principles other than my tradition. You will see their actions and disapprove of them.'*

"I said, 'So is there, after that goodness (*Khayr*), any (further) evil (*Sharr)*?' He said, *'Yes. Callers at the gates of Hell. Whosoever answers them (i.e. their call) to it, they will throw him into it.'*

"I said, 'O Messenger of Allāh, describe them to us.' He said, *'They are from our skin (i.e. race) and they speak with our tongues (i.e. language).'*

"I said, 'Then what do you order me, if that reaches me?' He said, *'Adhere to the group (Jamā'ah) of the Muslims, and their Imām.'*

"I said, 'But, if they have no group (*Jamā'ah*) and no *Imām*?' He said, *'Then avoid all those sects (Al-Firaq), even if you have to bite the trunk of a tree, until death reaches you while you are upon that.'*" [35]

And the refutation upon their doubt (*Shubhah*) is from two angles:

The First Point: As it is clear from the text of the *Hadīth*, that the sects, which the Prophet صلى ا عليه وسلم ordered the avoidance (*I'tizāl*)

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[34] **Trans. Note:** *Dakhan*: literally a pure color blemished with a touch of yellow. As it is used in this text, it means some good, which is impure due to its being mixed with some evil.

[35] Agreed Upon (i.e. Narrated by Al-Bukhārī and Muslim)

of, are the sects of misguidance which were mentioned in his statement, *"Callers at the gates of Hell…"* and this is indicated by:

A. The label of indication (*Ism Al-Ishārah*); "… those…", (*Tilk*) refers to something mentioned prior to it in the text.

B. The ا (*Alif*) and the ل (*Lam*) in "… *Al-Firaq*…" is for *'Ahd* [36] and it indicates something which was previously mentioned (and) established in the mind (of he who hears it). And it is not correct (to say) that it could be for the entire category (i.e. all sects), otherwise "The Saved Sect" (*Al-Firqat An-Nājiyah*) would also be entered into *"…those sects…"*, and this is false according to consensus (*Ijmā'*). And from this, you see that the phrasing, "…*Al-Firaq*…" – whose avoidance (*I'tizāl*) has been ordered – even if (we were to say that) it was a phrasing of generality (*Sīghat 'Umūm*); it is from the general (i.e. all sects), which is intended as specific (i.e. all sects of astrayness). So the sects which were referred to; they are the astray sects and none other, as it is narrated in another narration of the same *Hadīth*: *"… then the callers of astrayness will emerge…"* – narrated by Ahmad and Abū Dāwūd and its chain is *Hasan*. [37]

The Second Point: And it is what we have constantly been reminding about, which is that the *Sharī'ah*-based rulings are not derived from a single text, unless there is no other. Rather, they are taken from all of the evidences concerning that issue by reconciling between them through limitation or restriction (of their meanings) or by abrogation or other than that, from the methods of reconciling the evidences. And in this issue, we say that the avoidance (*I'tizāl*), which was narrated in his صلى ا عليه وسلم saying, *"… then avoid those sects…"* if we say, for the sake of argument, that

[36] **Trans. Note:** The ا and ل of *'Ahdiyyah* is when they indicate a specific thing which is being mentioned, and they are not indicating generality in the phrasing. Like in English, if we say "The houses," - it can be general meaning the buildings which people live in, or it can be specific houses that are being refered to. *'Ahdiyyah* is the second example.

[37] **Trans. Note:** Al-Albānī declared it "*Hasan*" in "*Sahīh Al-Jāmi'*" (2,995), and he said: "Its chain is *Hasan*, its men are trustworthy," in "*Mishkāt Al-Masābīh*" (5,323) and he mentioned it in "*As-Silsilat As-Sahīhah*" (1,791), all with very similar phrasings.

it is upon its generality – despite the fact that it is from the general which is intended as specific – then we say that it is limited as well, by many texts. From them is the *Hadīth* of "The Saved Sect" (*Al-Firqat An-Nājiyah*) and from them, is the *Hadīth* of "The Victorious Party" (*At-Tā'ifah Al-Mansūrah*).

i. As for the *Hadīth* of "The Saved Sect" (*Al-Firqat An-Nājiyah*), he صلى ا عليه وسلم has stated, *"Verily, this nation (Ummah) will divide into seventy-three sects in desires. All of them are in the Fire except one, and that is the group (Jamā'ah)."* – narrated by Ibn Abī 'Āsim from Mu'āwiyah (may Allāh be pleased with him), and Al-Albānī authenticated it. [38] And in another narration, "The Saved One" (*An-Nājiyah*) is, *"… that which I and my companions are upon today"* from 'Abdullāh Ibn 'Amr (may Allāh be pleased with them). And this is a *Hasan Hadīth*, along with other (narrations) than this, due to its witnesses. [39] So his صلى ا عليه وسلم saying –in the *Hadīth* of Huthayfah (may Allāh be pleased with him) –*"Callers at the gates of Hell…."*; it is the same as his صلى ا عليه وسلم saying, in the *Hadīth* of the sects, *"… all of them are in the Fire…"* Then he made an exception, as he صلى ا عليه وسلم said, *"…except for one…"* and this one – and it is the "Saved One" (*An-Nājiyah*) – is a limitation for the generality of the avoidance (*I'tizāl*) which was commanded. In other words, avoid the astray sects and adhere to "The Saved Sect" (*Al-Firqat An-Nājiyah*), whose methodology (*Manhaj*) is, *"… that which I and my companions are upon today."* And it is also the Group (*Jamā'ah*) because, "*Al-Jamā'ah* (The Group) is whatever complies with the Truth, even if you are alone." [40] And the clarification of the

[38] "*Kitāb As-Sunnah*" (2), by Ibn Abī 'Āsim.
[39] **Trans Note:** "… its witnesses…" (*Shawāhid*), refers to the substantiation of other narrations of this *Hadīth*, which add to its strength and raise its status to *Hasan*, although this particular narration contains some weakness. This *Hadīth* was declared "*Mahfūth*" (*preserved*) by Ibn Hajar in "*Lisān Al-Mīzān*" (8/97), and Ibn Taymiyyah called it "*Mash'hūr*" (*renown*) in "*Majmū' Al-Fatāwā*" (24/171), with the extra phrasing "*…Whoever is upon that which I and my companions are upon today."*
[40] Narrated by Ibn 'Asākir, with an authentic (*Sahīh*) chain, from Ibn Masūd, may Allāh be pleased with him, *Mawqūf.*

methodology (*Manhaj*) for "The Saved Sect" (*Al-Firqat An-Nājiyah*), will be presented in the topic: **"The Fundamental Principles of Holding Steadfast to the Book and *Sunnah*"**, within "The Faith-Oriented Preparation", *In Shā' Allāh Ta'āla*.

ii. And as for the *Hadīth* of "The Victorious Party" (*At-Tā'ifah Al-Mansūrah*), the Messenger of Allāh صلى ا عليه وسلم said, *"There will not cease to be a party (Tā'ifah) from my nation (Ummah), establishing the order of Allāh. They are unharmed by those who betray them or oppose them, until the Decision of Allāh arrives and they are dominant over the people."* **[41]** – narrated by Muslim from Mu'āwiyah (may Allāh be pleased with him). **[42]**

And he صلى ا عليه وسلم said, *"And this Religion (Dīn) will never cease to be established; a faction ('Isābah) from the Muslims will fight upon it until the Hour arrives."* – narrated by Muslim from Jābir Ibn Samurah. **[43]**

And it is a famous *Hadīth*; furthermore, it is oft-narrated (*Mutawātir*) **[44]** as Ibn Taymiyyah (may Allāh be merciful to him) mentioned in "*'Iqtidhā' As-Sirāt Al-Mustaqīm*". It has been narrated on the authority of fifteen companions (*Sahābah*) and it was narrated by the authors of The Six Books (*Al-Kutub As-Sittah*) **[45]** and the *Ma'ājam* **[46]** and the *Masānīd* **[47]** and in the books of the *Sunnah*

Trans. Note: "…*Mawqūf*…" literally, "…stopped…", meaning that the chain of this *Hadīth* is *Mawqūf* (stopped) at Ibn Masūd and does not reach to the Messenger of Allāh صلى ا عليه وسلم.

[41] **Trans. Note:** Also narrated by Ahmad with the phrasing *"… until the Decision of Allāh ,Glorious is He…"*

[42] **Trans. Note:** The original manuscript said "May Allāh be pleased with them"

[43] **Trans. Note:** Also narrated by Ahmad.

[44] **Trans. Note:** *Mutawātir*: Oft-narrated; meaning that its authenticity cannot be questioned due to how many people narrated the exact same *Hadīth* as it would have been impossible for all these people to lie or mistakenly agree on the wrong words.

[45] **Trans. Note:** *Al-Kutub As-Sittah*: The Six Books; those being *Sahīh Al-Bukhārī*, *Sahīh Muslim*, *Sunan Abī Dāwūd*, *Sunan An-Nasā'ī*, *Sunan At-Tirmithī* and *Sunan Ibn Mājah*.

[46] **Trans. Note:** *Ma'ājam*: Plural of *Mu'jam*: the collections of *Hadīth*, which are arranged and categorized according to the *Shaykhs* who passed them onto the compilers of the collection. (Ex. "*Al-Mu'jam Al-Kabīr Lit-Tabarānī*")

and the remaining books of the Righteous Predecessors (*As-Salaf As-Sālih*), may Allāh be pleased with all of them.

So here is a party (*Tā'ifah*) which establishes the matters of the Religion (*Dīn*), fighting for it; it is promised with victory and dominance and given glad tidings that it will not be harmed by those who oppose it, nor by those who betray it; it is (always) present without any break, from the time of the Messenger of Allāh صلى ا عليه وسلم until the last of it fights the *Dajjāl* (The False Messiah) alongside 'Īsā, عليه السلام – So would the Prophet صلى ا عليه وسلم order the Muslims to avoid this party (*Tā'ifah*), which establishes the matters of the Religion (*Dīn*)? And due to that, we say that if his صلى ا عليه وسلم saying, *"Then avoid all those sects (Al-Firaq)…"*, were to be held upon its generality, then it becomes restricted by this *Hadīth*, just as it is restricted by the *Hadīth* of "The Saved Sect" (*Al-Firqat An-Nājiyah*). So if the people separate into sects – in the absence of the *Imām* – then the Muslim should look to which sect follows the methodology (*Manhaj*) of "The Saved Sect", and which fulfils the trusts for carrying this Religion (*Dīn*) and performs *Jihād* upon that. (And if they find such a sect), then they should adhere to it, especially when the texts which were narrated regarding "The Battling Alongside the Sinful *Amīr*", have indicated that the *Jihād* is constant and will never cease. And Ibn Qudāmah said, **"So if the *Imām* does not exist, then the *Jihād* is not delayed …"** So how could *Jihād* be performed without a group (*Jamā'ah*)?

Yes, Ibn Hajar did say, in the explanation of the *Hadīth*: *"Then avoid all those sects (Al-Firaq)…"*, "And in the *Hadīth*, it contains that whenever there is no *Imām* for the people, and thus the people break into different parties (*Ahzāb*) - then he should not follow anyone in the sects and avoid them all, if possible, due to a fear that he might fall into evil." [48]

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[47] **Trans. Note:** *Masānīd*, plural of *Musnad*: the collections of *Hadīth*, which are arranged and categorized according to the *Sahābah* who narrated them; usually alphabetically or in order of the earliest in *Islām* or according to the nobility of lineage. (Ex. "*Musnad Imām Ahmad*" or "*Musnad Abī Ya'alā Al-Mūsālī*")

[48] "*Fat'h Al-Bārī*" (13/37)

But, as I have stated previously, the *Hadīth* of "The Victorious Party" (*At-Tā'ifah Al-Mansūrah*) limits many of the *Hadīths* of the trials (*Fitan*). And an example of that is what Ibn Hajar mentioned in the chapter: **"The Changing of the Times, Until Idols are Worshipped"**. He said, "Ibn Battāl said, 'This *Hadīth*, and the likes of it; they are not intended to suggest that the Religion ends completely, in all of the places of the Earth, until there is nothing left of it. Because it is confirmed that *Islām* remains until the (final) Hour arrives. But yes, it will become weak and return to being strange as it had began …' Then he mentioned the *Hadīth*, *'There will not cease to be a party (Tā'ifah) from my nation (Ummah) fighting upon the Truth…'* – the *Hadīth*. He said, "So a restriction upon the other narrations becomes clear in this *Hadīth*." **[49]**

And due to that, I say that the *Hadīth* of "The Victorious Party" (*At-Tā'ifah Al-Mansūrah*), is a limitation upon the *Hadīth* of, *"Then avoid all those sects (Al-Firaq)…"* And it is also possible to say that the (commandment of) avoidance (*I'tizāl*), in the *Hadīth*, is dependant upon two conditions, being: (1) the absence of the group (*Jamā'ah*) and (2) the absence of the *Imām* – "And if they have no group (*Jamā'ah*) and no *Imām*?" – *"...then avoid…"* And that if the *Imām* is absent, but the group (*Jamā'ah*) is to be found, then the (commandment of) avoidance (*I'tizāl*) is nullified, because it is dependant upon two conditions, and not (only) one condition. However, this derivation is not quite proper, because that which is meant by the group (*Jamā'ah*) in the *Hadīth* of Huthayfah, is the group (*Jamā'ah*) of the Muslims which is under the obedience of (i.e. is loyal to) the *Imām* – *"Adhere to the group (Jamā'ah) of the Muslims, and their Imām."* And if the *Imām* is absent, then the group, in this definition, (*Jamā'ah*) would also have to be absent by necessity. So this derivation isn't proper, and the saying that the *Hadīth* of "The Victorious Party" (*At-Tā'ifah Al-Mansūrah*), is a limitation upon the *Hadīth* of Huthayfah is more befitting than it. **[50]**

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[49] Refer to "*Fat'h Al-Bārī*" (13/76-77), and he mentioned similar to it in (13/19).

[50] **Trans. Note:** The point of the author here is that it might be said that as long as there is still a group (*Jamā'ah*) present, then the two conditions, "…no group (*Jamā'ah*) and no *Imām*", in the command of avoidance, *"…avoid those sects…"* would not be held, because there is only one condition present (i.e. the absence of

So the point of the earlier discussion is that the Muslim is ordered to follow the Truth, and he is ordered to follow the *Imām* of the Muslims, when he is to be found: *"Adhere to the group (Jamā'ah) of the Muslims, and their Imām"* And he must obey him in that which is obedience to Allāh and he must not obey him in the disobedience of Allāh. So if there is no *Imām* for the Muslims, then the Muslim is still ordered to follow the Truth, and the Prophet صلى ا عليه وسلم has clarified that there will not cease to be a party (*Tā'ifah*) from his nation (*Ummah*) upon the Truth. So in the absence of the *Imām*, it is obligatory (*Wājib*) upon the Muslim to adhere to this party (*Tā'ifah*), which establishes the Religion (*Dīn*) with Knowledge (*'Ilm*) and Invitation (*Da'wah*) and *Jihād*. And Allāh, the Most High, has stated:

وَاتبِعْ سَبِيلَ مَنْ أَنابَ إِلَيَّ

"…and follow the path of him who turns to Me…" [51]

Ibn Al-Qayyim (may Allāh be merciful to him), said, "And how great is that which Abū Muhammad 'Abdur-Rahmān Ibn Isma'īl – who was known as Abū Shāmah – said in the book "*Al-Hawādith Wal-Bida'*", *'Wherever the order to adhere to the group (Jamā'ah) is found, then what is meant by it, is adhering to the Truth and its followers, even if those who adhere to it are few and those who oppose it are many.'* This is because the Truth is what the original group (*Jamā'ah*) was upon in the time of the Prophet صلى ا عليه وسلم and his Companions. And there is no (need to go) looking at the great numbers of the People of Innovation (*Bid'ah*) who came after them. 'Amr Ibn Maymūn Al-Awdī (may Allāh be pleased with him) said, 'I was a

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the *Imām*). However, when we look at the actual text of the *Hadīth* of Huthayfah, we can see that the word "group" (*Jamā'ah*), refers to the group of the Muslims, which is loyal and obedient to the *Imām*. And this is indicated by his صلى ا عليه وسلم saying, *"Adhere to the group (Jamā'ah) of the Muslims, and their Imām."* So this would mean that the group (*Jamā'ah*) being referred to, could not exist in the absence of this *Imām* because there would be no *Imām* for them to be loyal and obedient to. And in this way, this explanation would not be correct. Therefore, the conclusion that the *Hadīth* of "The Victorious Party" (*At-Tā'ifah Al-Mansūrah*) is a limitation upon the *Hadīth* of Huthayfah, is more fitting and a better reconciliation between these various texts.

[51] *Luqmān*, 15

companion of Mu'āth in Yemen. So I did not leave him until I buried him in the soil of Ash-Shām. Then after him, I was a companion of the *Afqah* (most knowledgeable) of the people; 'Abdullāh Ibn Mas'ūd (may Allāh be pleased with him). So I heard him saying, "(Obligatory) upon you is (adhering to) the group (*Jamā'ah*), because the Hand of Allāh is upon the group (*Jamā'ah*)." Then one day I heard him saying, 'There will be placed upon you authorities who delay the prayer beyond its time. So pray the prayer in its time, then that will be the compulsory (*Fardh*), and pray with them as it will be superogatory (*Nāfilah)* for you." He said, "I said, 'O Companion of Muhammad, I do not know what it is that you narrate to me.' He (i.e. Ibn Mas'ūd) said, 'And what is that?' I said, 'You order me with the group (*Jamā'ah*) and encourage me concerning that, and then you say, 'Pray the payer alone as it is the compulsory (*Fardh*) and pray with the group (*Jamā'ah*), while it is superogatory (*Nāfilah*)?' He said, 'O 'Amr Ibn Maymūn, I used to consider you from the most knowledgeable people of this village. Do you know what the group (*Jamā'ah*) is?' I said, 'No.' He said, 'Verily, the majority of the group (*Jamā'ah*) are those who have left the group (*Jamā'ah*). *Al-Jamā'ah* (The Group) is whatever complies with the Truth, even if you are alone.' And according to one narration, '… so he slapped my thigh and said, 'Woe to you! Verily, the majority of the people have left the *Jamā'ah,* and verily, the *Jamā'ah* is what complies with the obedience to Allāh, Glorious is He.' And Nu'aym Ibn Hammād said, '… meaning that if the *Jamā'ah* becomes corrupt, then (obligatory) upon you is what the group (*Jamā'ah*) was upon prior to its corruption, even if you are alone, because verily, you are the *Jamā'ah* at that time.' Mentioned by Al-Bayhaqī and others." [52]

Point of Notice: Review the meanings of the word "*Al-Jamā'ah*" in general within the fourth chapter, page 149. [53]

[52] "*Ighāthat Al-Lahfān Min Masāyid Ash-Shaytān*" (Pg. 82-83), by Ibn Al-Qayyim, published by "*Dār Al-Kutub Al-'Ilmiyyah*", 1407 H.

[53] **Trans. Note:** This reference, like others in this chapter and the one that follows it, are examples of the *Shaykh* referring to other parts of the book that have not been translated yet.

Point Of Notice: Who are "The Victorious Party" (*At-Tā'ifah Al-Mansūrah*)?

Most of the predecessors (*As-Salaf)* took (the opinion) that "The Victorious Party" (*At-Tā'ifah Al-Mansūrah*) were the scholars (*'Ulamā'*) and the People of *Hadīth* (*Ahlul-Hadīth*), as Al-Bukhārī and Ahmad Ibn Hanbal have stated. But his **صلى ا عليه وسلم** saying, ***"… this Religion (Dīn), established, fighting upon it…"*** is a problem for them, and other than that from the narrations which clearly mention that the fighting (*Al-Qitāl)* is from the unique (characteristics) of this party (*Tā'ifah*), like the narration of Jābir Ibn 'Abdillāh, 'Imrān Ibn Husayn, Yazīd Ibn Al-Asamm from Mu'awiyah and 'Uqbah Ibn 'Āmir, may Allāh be pleased with them all. So it is not possible to restrict the *Tā'ifah* to the '*Ulamā'* only. Rather, they (i.e. the *Tā'ifah*) are the People of Knowledge <u>and</u> *Jihād*. And due to this, An-Nawawī mentioned the sayings of Al-Bukhārī and Ahmad and others, then he said, "And it could be that this *Tā'ifah* is spread out amongst the different types of Believers. From them are brave warriors (*Muqātilūn*), and from them are jurists (*Fuqahā'*), and from them are the Scholars of *Hadīth* (*Muhaddithūn*) and from them are those who distance themselves from the matters of this worldly life due to intense worship (*Zuhhād*) and commanders of good and forbidders of evil. And from them are people of other forms of good - and it is not necessary for them to be altogether, rather they could be spread out in different areas of the Earth." [54]

And like wise, *Shaykh Al-Islām* Ibn Taymiyyah (may Allāh be merciful to him) in his *Fatāwā* – concerning fighting the Tartars, who declared the two testimonies of faith (*Ash-Shahādatayn*), yet governed by other than the *Sharī'ah* of *Islām* – he said that the People of *Jihād* are from the most deserving ones for being included in *At-Tā'ifah Al-Mansūrah*, as he said, "As for the *Tā'ifah* in Ash-Shām and Egypt and the likes of them - then they are, in this time, the ones who fight (*Muqātilūn*) for the Religion (*Dīn*) of *Islām*. And they are from the most deserving ones for being included in *At-*

[54] "*Sahīh Muslim Bi-Sharh An-Nawawī*" (13/67)

Tā'ifah Al-Mansūrah, which the Prophet صلى ا عليه وسلم mentioned in his statement, in the authentic and frequently narrated (*Mustafīdhah*) *Ahādīth*, from him, *'There will not cease to be a Tā'ifah from my Ummah, dominant upon the Truth. They are not harmed by those who oppose them nor those who betray them, until the (final) Hour arrives.'* And in a narration from Muslim, *'The People of the West, will not cease.'* [55] " [56]

And there is no doubt that the '*Ulamā'* who work (for the Religion), are the first people entered into this *Tā'ifah* and then the rest of the people from the *Mujāhidīn* and the others follow them.

And what lead the Predecessors (*As-Salaf)* to the saying that the *Tā'ifah* is the *'Ulamā'*, was that the *Jihād* was something about which there was no disagreement among the Muslims, and the fortified borders were fully equipped with soldiers and armies, facing the states of warfare (*Diyār Al-Harb*) and the things that would pierce the Religion the most in their times were the innovations and the great heresies - and the knights of this battle arena are the *'Ulamā'*.

As for us today, we are in need of the efforts of the '*Ulamā'* and the *Mujāhidīn*; each in their respective battle arena, as the Religion cannot be established with knowledge alone, nor with *Jihād* alone – Rather, with both of them together. As He, the Most High, said in the Verse of "The Iron" (*Al-Hadīd)*:

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[55] **Trans. Note:** From Sa'd Ibn Abī Waqqās, may Allāh be pleased with him. An-Nawawī said in his *Sharh* of this *Hadīth*: "'Alī Ibn Al-Madīnī said: 'The meaning of *'The People of the West (Al-Gharb)…'* is the Arabs, and what is meant by *'…the West (Al-Gharb)…'* is the *Dalū* (A type of container made from animal hide that is used to remove water from wells) due to it being specific to them most of the time.' And others said: What is meant by it is the West of the Earth. And Mu'āth said: They are in Ash-Shām. And it has come in a *Hadīth* that the last of them are at *Bayt Al-Maqdis*. And it is said that they are the People of Ash-Shām and what is beyond it. *Al-Qādhī* said: And it is said that what is meant by the People of *Al-Gharb* is the People of Severity and Steadfastness, and the *Gharb* of everything is its limit." End of An-Nawawī's words.

[56] "*Majmū' Al-Fatāwā*" (28/531)

لقدْ أرْسَلنا رُسُلنا بِالبَينَاتِ وَأنزَلنا مَعَهُمُ الكِتابَ وَالمِيزَانَ لِيَقُومَ الناسُ بِالقِسْطِ وَأنزَلنا الحَدِيدَ فِيهِ بَأسٌ شَدِيدٌ وَمَنَافِعُ لِلناسِ وَلِيَعْلمَ اللهُ مَنْ يَنصُرُهُ وَرُسُلهُ بِالغَيْبِ إن اللهَ قوِي عَزِيزٌ

Indeed We have sent Our Messengers with clear proofs, and We revealed the Book with them, and the Balance (justice) that mankind may keep up justice. And We brought forth Iron wherein is mighty power (in matters of war), as well as (many) benefits for mankind. And that Allāh may test who it is that will help Him (His Religion), and His Messengers in the unseen. Verily, Allāh is All-Strong, All-Mighty. [57]

And *Shaykh Al-Islām* Ibn Taymiyyah said, "And the Religion will not be established except with the Book, the Balance, and the Iron. The Book to guide with it, and Iron to support it. As He, the Most High, said: "**Indeed We have sent Our Messengers…"** – the Verse. So the Book; with it the knowledge and the Religion are established. And the Balance; with it the rights in monetary contracts and collections are established. And the Iron; with it the penalties of law (*Al-Hudūd*) are established." [58] And he also said, "And the swords of the Muslims give victory to this Legislation - which is the Book and the *Sunnah*, as Jābir Ibn 'Abdillāh (may Allāh be pleased with him) said, 'The Messenger of Allāh **صلى ا عليه وسلم** ordered us to strike with this – meaning the sword – whosoever leaves from this – meaning the *Mus'haf*." [59] And he also said, "Because verily, that which establishes the Religion, is the Guiding Book and the Victory-Giving Iron, as Allāh, the Most High, mentioned." [60] And many other places, in the different sections (in his *Fatāwā*).

I say: And due to that, it is possible to say that *At-Tā'ifah Al-Mansūrah* is the *Tā'ifah* which performs *Jihād*, (and) which follows the straight, *Sharī'ah*-based methodology (*Manhaj*); the

[57] **Trans. Note:** *Al-Hadīd*, 25
[58] "*Majmū' Al-Fatāwā*" (35/36)
[59] "*Majmū' Al-Fatāwā*" (35/365)
[60] "*Majmū' Al-Fatāwā*" (28/396)

methodology (*Manhaj*) of *Ahl As-Sunnah Wal-Jamā'ah*. And I will mention the outlines of this methodology (*Manhaj*), *In Shā' Allāh Ta'āla* within the issue of **"The Fundamental Principles of Holding Steadfast to the Book and *Sunnah*."**

Point Of Notice: Is "The Saved Sect" (*Al-Firqat An-Nājiyah*) (the same as) "The Victorious Party" (*At-Tā'ifah Al-Mansūrah*)?

It is narrated in most of the books of creed ('*Aqīdah*), that "The Saved Sect" (*Al-Firqat An-Nājiyah*) *Ahl As-Sunnah Wal-Jamā'ah* is (the same as) "The Victorious Party" (*At-Tā'ifah Al-Mansūrah*). For example, look to the last chapter in "*Al-'Aqīdah Al-Wāsitiyyah*", by Ibn Taymiyyah and also the introduction to the book "*Ma'ārij Al-Qubūl"*, by Hāfith Al-Hakamī, and other than those.

But that which seems to be the most correct opinion, in my view, is that *Al-Firqah* and *At-Tā'ifah* are not interchangeable; and that *At-Tā'ifah* is a part of *Al-Firqah*. So *At-Tā'ifah Al-Mansūrah* is that part, or those few, who carry out giving victory to the Religion (*Dīn*), by Knowledge and *Jihād* from amongst *Al-Firqat An-Nājiyah*, which is upon the correct methodology (*Manhaj*) and belief (*I'tiqād*). And branching out from that, we also say, that the *Mujaddid* [61] is one of the individuals from *At-Tā'ifah Al-Mansūrah*, who carried out the most important obligations of the Religion in his time, upon the saying of the majority, that the *Mujaddid* is one person. [62]

And my evidence for this is what follows:

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[61] **Trans. Note:** *Mujāddid*: Reformer, reviver etc.

[62] **Trans. Note:** The issue of the *Mujaddid* is referring to the *Hadīth* narrated from Abū Hurayrah (may Allāh be pleased with him) from the Messenger of Allāh صلى عليه وسلم ا, that he said: *"Verily Allāh will send for this nation (Ummah), at the head of every hundred years, one who will revive for it its Religion."* Narrated by Abū Dāwūd. As-Sakhāwī mentioned that's its chain is authentic and its men are all trustworthy, in "*Al-Maqāsid Al-Hasanah*" (149), and Al-Albānī authenticated in "*Sahīh Abī Dāwūd*" (3,606), "*As-Silsilah As-Sahīhah*" (599), and in "*Sahīh Al-Jāmi'*" (1,874), with the extra phrasing *"Ta'āla"*, as well as other places in his books.

1. Allāh, the Most High's, statement:

فَلَوْلَا نَفَرَ مِنْ كُلِّ فِرْقَةٍ مِنْهُمْ طَائِفَةٌ لِيَتَفَقَّهُوا فِي الدِّينِ

So if only from every group (*Firqah*) **of them, a party** (*Tā'ifah*) **went forth, that they may get instructions in the Religion…** [63]

So this Verse differentiated between the "*Firqah*" and the "*Tā'ifah*", and it showed that the *Tā'ifah* is a part of the *Firqah*, and that it is that part of the *Firqah*, which establishes the knowledge and the *Jihād*, like in the *Tafsīr* of this Verse. [64]

2. The knowledge and the *Jihād*; and they are the most important descriptions of *At-Tā'ifah Al-Mansūrah*. And the basis (*Asl*) of their legislation is that they are communal obligations "*Furūdh Kifāyah*", which is that this duty becomes obligatory upon some (to fulfill) but not all of the sons of the *Ummah*, to carry out. And these ones, from the nation (*Ummah*), who are carrying out (attaining) knowledge and *Jihād*, they are *At-Tā'ifah Al-Mansūrah*.

3. And the saying of the *Imāms* of *Hadīth*, such as Al-Bukhārī and Ahmad, that: "The *Tā'ifah* is the People of *Hadīth* (*Ahl Al-Hadīth*) or the People of Knowledge," like Al-Bukhārī entitled a chapter on this in "*Kitāb Al-I'tisām*", from his *Sahīh*, leaves the impression of this difference, because not everyone who is from *Ahl As-Sunnah* (*Al-Firqat An-Nājiyah*) is from the People of *Hadīth* (*Ahl Al-Hadīth*). As for what An-Nawawī narrated concerning the *Tā'ifah*, "Ahmad Ibn Hanbal said, 'If they are not the People of *Hadīth* (*Ahl Al-Hadīth*), then I do know who they are.' *Al-Qādhī* 'Iyādh said, 'Ahmad only meant by this, *Ahl As-Sunnah Wal-Jamā'ah* and those who believe the school of thought (*Math'hab*) of the People of *Hadīth* (*Ahl Al-Hadīth*)." So the saying of *Al-Qādhī* 'Iyādh that the People of *Hadīth* – in other words, all of *Ahl As-Sunnah* – is not correct, unless we say that he meant those who follow them. And this is what he indicated with his saying, "… and those who believe the school of thought (*Math'hab*) of the People of *Hadīth* (*Ahl Al-*

[63] *At-Tawbah*, 122
[64] Refer to Ibn Kathīr

Hadīth)." Because the general people should be followers of their '*Ulamā'*', as the '*Ulamā'*' are from the People of the Authority, who were mentioned in His, the Most High's, statement:

أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ

Obey Allāh and obey the Messenger, and those of you (Muslims) who are in authority. [65]

And (what is) clearer than that, is His, the Most High's, statement:

وَلَوْ رَدُّوهُ إِلَى الرَّسُولِ وَإِلَى أُولِي الْأَمْرِ مِنْهُمْ لَعَلِمَهُ الَّذِينَ يَسْتَنْبِطُونَهُ مِنْهُمْ

…and if only they had referred it to the Messenger or to *Ulī Al-Amr* (those charged with authority) among them, the proper investigators would have understood it from them (directly). [66]

So in this Verse, Allāh, the Most High, labeled the '*Ulamā'*' – "the proper investigators" – He labeled them as People of the Authority (*Ulī Al-Amr*); and this is a text, which demonstrated that the '*Ulamā'*' are the People of the Authority. And in it (also), is an indication of the obligation of increasing their (ranks), as this indication is also narrated in the *Hadīth* of the seizing of the knowledge. [67] So the common people are followers of the '*Ulamā'*'. He, the Most High, said:

يَوْمَ نَدْعُوا كُلَّ أُنَاسٍ بِإِمَامِهِمْ

(And remember) the Day when We shall call together all human beings with their (respective) *Imām*… [68]

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[65] *An-Nisā'*, 59

[66] *An-Nisā'*, 83

[67] **Trans. Note**: Referring to the *Hadīth* narrated by Al-Bukhārī, Muslim, At-Tirmithī, Ibn Mājah and Ahmad, on the authority of 'Abdullāh Ibn 'Amr, who said, "I heard the Messenger of Allāh صلى ا عليه وسلم say, *'Verily, Allāh does not remove the knowledge by taking it from the slaves. Rather, He removes the knowledge by removing the 'Ulamā'. So when there are no scholars left, the people will take ignorant leaders. So they are questioned (about certain matters) and they rule without knowledge; so they go astray and they cause others to go astray."*

[68] *Al-Isrā'*, 71

And *Ahl As-Sunnah Wal-Jamā'ah* are followers of their '*Ulamā'*, who are the *Tā'ifah* who take the place of the Prophet صلى ا عليه وسلم in the nation (*Ummah*). So if it is said that *Ahl As-Sunnah* (a.k.a. *Al-Firqat An-Nājiyah*) are *At-Tā'ifah Al-Mansūrah*, then this is only acceptable if the intended meaning is that *Ahl As-Sunnah* are followers of *At-Tā'ifah Al-Mansūrah*.. Otherwise, *At-Tā'ifah* is more specific then *Al-Firqah*, and Allāh, the Most High, knows best.

And the point from this is for each Muslim to strive to be from this *At-Tā'ifah Al-Mansūrah*, which is established in aiding the Religion through Knowledge ('*Ilm*), Invitation (*Da'wah*) and *Jihād*. He, the Most High, said:

وَفِي ذَٰلِكَ فَلْيَتَنَافَسِ الْمُتَنَافِسُونَ

... and for this, let (all) those who want to strive, strive ... [69]

I say: And despite that, the *Tā'ifah* could be the entire *Firqah*, and that is at the end of time, when the Believers will be isolated in Ash-Shām, and upon them 'Īsā ibn Maryam عليه السلام descends to fight the *Dajjāl*, as is in the authentic *Ahādīth*. And concerning this, there are narrations, which mention that *At-Tā'ifah* will be in Ash-Shām or *Bayt Al-Maqdis* (Palestine)[70]; and that this is in regards to the last members of this *Tā'ifah* completely. However, prior to that from the (various) eras, the *Tā'ifah* can be in Ash-Shām or other than it. [71] And Allāh, the Most High, knows best.

Point Of Notice: Concerning the Most Important Obligations of *At-Tā'ifah Al-Mansūrah* in This Era.

This, and from the greatest obligations of *At-Tā'ifah Al-Mansūrah*, in this time, is *Jihād* against the apostate rulers (*Al-Hukkām Al-*

[69] *Al-Mutaffifīn*, 26

[70] The *Hadīth* of Abū Umāmah, may Allāh be pleased with him.

[71] And look to the words of the author of the book "*Fat'h Al-Majīd Sharh Kitāb At-Tawhīd*", "The Explanation of the *Hadīth* of *At-Tā'ifah*", (Pg. 278-279), publication "*Ansār As-Sunnah*".

Murtaddīn), who alter the *Sharī'ah* of Allāh; who govern over the Muslims with man-made laws of *kufr*. As Ibn Kathīr said, in the *Tafsīr* of His, the Most High's, statement:

أَفَحُكْمَ الْجَاهِلِيَّةِ يَبْغُونَ وَمَنْ أَحْسَنُ مِنَ اللهِ حُكْمًا لِقَوْمٍ يُوقِنُونَ

Do they then seek the judgment of *Jāhiliyyah* (the Days of Ignorance)? And who is better in judgment than Allāh for a people who have firm Faith? [72]

"He, the Most High, objects to those who leave the Judgment (*Hukm*) of Allāh, which is based upon all goodness and which forbids all evil, and then goes to other than it, of opinions and desires and terminologies that have been fabricated by mankind, without any basis in the *Sharī'ah* of Allāh…" – until his saying – "… So whosoever from them (i.e. the rulers) does that, then he is a disbeliever (*kāfir*), it is obligatory (*Wājib*) to fight against him until he returns to the Judgment (*Hukm*) of Allāh and His Messenger, so he does not place as law, anything besides it, in anything small or great." [73]

And many of the contemporary '*Ulamā'* have commented upon the aforementioned words of Ibn Kathīr, clarifying that this is the condition of the rulers (*Hukkām*) who rule the Muslims with man-made laws today.

As *Shaykh* Ahmad Shākir (may Allāh be merciful to him) said, "Is it permissible, with this, in the Legislation of Allāh, for the Muslims to rule in their countries with a legislation which is taken from the legislation of the pagan, atheist Europe? Furthermore, a legislation which is full of desires and opinions of falsehood (*Bātil*), which they change and replace whenever they want, (and) he who fabricates it does not care whether it complies with the Legislation of *Islām* or opposes it?!" – until his saying – "… Verily, the issue of these man-made laws is clear like the clarity of the sun. It is clear disbelief

[72] *Al-Mā'idah*, 50 **Trans. Note:** In the original manuscript it erroneously says *Al-Mā'idah*, 5.
[73] "*Tafsīr Ibn Kathīr*" (2/67)

(*kufr bawwāh*) and there is nothing hidden about it nor any equivocation, and there is no excuse for anyone who attributes themselves to *Islām*, whoever they may be, to act according to them or to submit to them or to approve of them." [74]

And *Al-'Allāmah* Muhammad Hāmid Al-Fiqī (may Allāh be merciful to him) said, commenting upon the words of Ibn Kathīr (may Allāh be merciful to him), "And the like this, or worse than it, is he who takes laws from the words of the Europeans, which he seeks judgments from, in matters blood, the private parts (i.e. marriage etc.) and money, and he puts that ahead of what he knows from the Book of Allāh and the *Sunnah* of His Messenger صلى ا عليه وسلم. So he, without doubt, is a disbelieving apostate (*kāfir murtadd*) if he remains upon it and does not return to judging with what Allāh revealed. And no name that he labels himself will benefit him, nor any action, of the apparent actions of prayer (*Salāt*), fasting (*Siyām*), pilgrimage (*Hajj*), and such…" [75]

And the *Shaykh* Muhammad Ibn Ibrahīm Āl Ash-Shaykh (may Allāh be merciful to him) the former *Muftī* of Saudi (Arabia), said that the ruling by other than what Allāh revealed is major disbelief (*kufr Akbār*), which takes one outside the *Millah* (Religion), in six categories, the fifth of them describes the countries of the Muslims nowadays with a precise description. And he said, concerning it:

"And it is its greatest and its most encompassing and most apparently opposing to the (*Islāmic*) Legislation and stubbornness in the face of its Laws and insulting to Allāh and His Messenger and opposing to the courts of the *Sharī'ah,* in development, equipping, plotting, establishing, branching, forming, ruling, forcing, sources and references. So just like the *Sharī'ah* courts have derived sources, the source of them all being the Book of Allāh and the *Sunnah* of His Messenger صلى ا عليه و سلم. Then these courts have

[74] "*'Umdat At-Tafsīr Mukhtasir Tafsīr Ibn Kathīr*" (4/173-174), by *Imām* Ahmad Shākir, published by "*Dār Al-Ma'ārif*".

[75] "*Kitāb Fat'h Al-Majīd Sharh Kitāb At-Tawhīd*", from the commentary (Pg. 396), published by "*Ansār As-Sunnah Al-Muhammadiyyah*".

references, which are laws that have been assembled from different legislations and many laws, such as the French and American laws, and the English laws and other than them from the laws, and from the schools of thought (*Mathāhib*) of some of the innovators and those who attribute themselves to the *Sharī'ah* and such.

So these courts are now fully operational with open doors in many of the settlements of *Islām*; people entering them in groups after groups, their rulers judge between them with that which opposes the *Sunnah* and the Book, with the system of that law, and they impose that upon them and approve it for them and enforce it upon them… So what disbelief (*kufr*) is beyond this disbelief (*kufr*)?! And what nullification of the testimony (*Shahādah*) of "Muhammad is the Messenger of Allāh", is beyond this nullification?!" **[76]**

So these are the sayings of some of the People of Knowledge concerning those rulers. And for the details (*Tafsīl*) in this subject there is another place.

As for the obligation (*Wājib*) upon the Muslims with respect to those apostate rulers (*Al-Hukkām Al-Murtaddīn*), then it is like what *Al-Qādhī* 'Iyādh (may Allāh be merciful to him) stated, "So if disbelief (*kufr*) and altering the Legislation or innovation (*Bid'ah*) come upon him, then he is expelled from the authority and the (obligation to) obey him drops, and it becomes obligatory (*Wājib*) upon the Muslims to stand up against him and to remove him and to set up a Just *Imām*, if that is possible for them. And if that is not possible except for a group, then it is obligatory (*Wājib*) upon them to remove the disbeliever (*kāfir*), and it is not obligatory in the case of the innovator (*mubtadi'*), unless they are certain that they are able to do so. And if they are unable, then the standing up (against him) is not obligatory (*Wājib*), and the Muslim must perform emigration (*Hijrah*) away from his land, to other than it, and must flee with his Religion." **[77]**

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[76] "*Risālat Tahkīm Al-Qawānīn*"
[77] "*Sahīh Muslim Bi'Sharh An-Nawawī*", "The Book of *Imārah*", (12/229)

This, and I have previously mentioned the statement of *Shaykh Al-Islām* Ibn Taymiyyah, "… in a time when it (i.e. *Jihād*) is absent due to incapability, preparing (*Isti'dād*) for *Jihād* is obligatory (*Wājib*) by gathering strength and steeds of war. (This is) because (of the Principle of *Fiqh* which states) *if something is necessary in order to fulfill an obligation (Wājib), then that (also) becomes an obligation (Wājib) itself.*" [78] And due to His, the Most High's, statement:

وَأَعِدوا لَهُمْ مَا اسْتَطَعْتُمْ مِنْ قُوةٍ

And make ready against them all you can of power…[79]

So preparing for *Jihād* against those apostates is from the most obligatory obligations upon the Muslims nowadays. Especially due to the fact that there is no state worthy of emigrating to and the emigration (*Hijrah*) is not (even) possible for most of the Muslims, due to their individual circumstances and the circumstances of their states and their (countries') regimes.

This is what there is concerning the greatest obligations of *At-Tā'ifah Al-Mansūrah* in this era.

And this issue – being the *kufr* of the rulers (*Hukkām*) who rule by other than the *Sharī'ah* of *Islām* – and the obligation of making *Jihād* against them; in my opinion, resembles – in its danger – the event of apostasy after the Prophet صلى ا عليه و سلم's death. This is because this issue threatens large groups of the Muslims, along with their sons, with full apostasy, if these circumstances are left upon their course, of corruption and the spreading of corruption from those rulers and their altering of the *Sharī'ah* and the Creed, and their spreading of indecency amongst the Muslims. And if the Companions (*Sahābah*), may Allāh be please with them, were alive today, then their most important activities would be *Jihād* against those rulers. And the trial (*fitnah*) of this matter has surpassed the

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[78] "*Majmū' Al-Fatāwā*" (28/259)
[79] *Al-Anfāl*, 60

trial (*fitnah*) of the issue of "creation of the *Qur'ān*" by multiple times. [80]

And I do not seen anyone from those who are attributed to the *Sharī'ah*-based knowledge, in this time of ours, speaking about this matter; neither rejecting (it) nor inciting the Muslims for *Jihād*, I cannot see anyone in this condition except that Allāh meets him with fury. He, the Most High, said:

إِنَّ الَّذِينَ يَكْتُمُونَ مَا أَنزَلْنَا مِنَ الْبَيِّنَاتِ وَالْهُدَى مِن بَعْدِ مَا بَيَّنَّاهُ لِلنَّاسِ فِي الْكِتَابِ أُولَئِكَ يَلْعَنُهُمُ اللَّهُ وَيَلْعَنُهُمُ اللَّاعِنُونَ إِلَّا الَّذِينَ تَابُوا وَأَصْلَحُوا وَبَيَّنُوا فَأُولَئِكَ أَتُوبُ عَلَيْهِمْ وَأَنَا التَّوَّابُ الرَّحِيمُ

Verily, those who conceal the clear proofs and the guidance which We have sent down, after We have made it clear for the people in the Book, they are the ones cursed by Allāh and cursed by the cursers. Except those who repent and do righteous deeds, and openly declare (the Truth which they concealed). Then those, I will accept their repentance. And I am the One Who accepts repentance, the Most Merciful. [81]

And the scholar (*'Ālim*) is required, by the *Sharī'ah*, to clarify the Truth in these circumstances before he is asked, due to His, the Most High's, statement:

قُلْ تَعَالَوْا أَتْلُ مَا حَرَّمَ رَبُّكُمْ عَلَيْكُمْ

Say: "Come, I will recite what your Lord has prohibited you from." [82]

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[80] **Trans. Note:** Referring to the *fitnah* of the *Jahmiyyah* sect, who denied that the *Qur'ān* was the Speech of Allāh, due to their denial of Allāh's Attribute of Speech. During their reign, several notable scholars were tortured and imprisoned due to their refusal to submit to this innovated concept. Among them was *Imām* Ahmad Ibn Hanbal, may Allāh have mercy upon him.

[81] *Al-Baqarah*, 159-160

[82] *Al-An'am*, 151

So the scholar (*'Ālim*) is required to call the people, saying, "Come…" so that he can make the Truth known to them (and differentiate it) from the falsehood. Al-Qurtubī said in its *Tafsīr*, "And like this, it is obligatory upon those who came after him صلى ا عليه و سلم, from the scholars (*'Ulamā'*), to convey to the people and clarify to them, that which Allāh has forbidden upon them from that which He has made permissible. Allāh, the Most High, said:

لَتُبَيِّنُنَّهُ لِلنَّاسِ وَلاَ تَكْتُمُونَهُ

You are to clarify it to mankind and not hide it.[83] "[84]

I say: And it is not allowed to delay the clarification beyond the time of need. But if the scholar (*'Ālim*) says, "I fear the people," then verily, Allāh, the Most High, said:

أَتَخْشَوْنَهُمْ فَاللَّهُ أَحَقُّ أَنْ تَخْشَوْهُ إِنْ كُنْتُمْ مُؤْمِنِينَ

Do you fear them? Allāh has more right that you should fear Him, if you are Believers. [85]

This is concerning those, from the *'Ulamā'*, who remain silent (about the rulers); so what about those who cozy-up (to the rulers)? And what about those who are pleased (with the rulers)? And what about those who assist (the rulers)!?

Allāh, the Most High, said:

وَمَنْ يَتَوَلَّهُمْ مِنْكُمْ فَإِنَّهُ مِنْهُمْ

And if any amongst you takes them as *Awliyā'* (allies), then surely he is one of them. [86]

[83] **Trans. Note:** *Āl-'Imrān*, 187
[84] Vol. 7/131
[85] *At-Tawbah*, 13
[86] *Al-Mā'idah*, 51

Issue: What Is The Stance Concerning The Numerous Groups (*Jamā'āt*) Working For *Islām*?

If the obligation (*Wājib*) in this time, is to act in a group to support the Religion (*Dīn*), and not seclusion, then what is the position concerning *numerous* groups? And with whom should the Muslim work with? I have been asked this question more than once and I will affirm my answer herein, for the general benefit. I say: The most obligatory, of the *Sharī'ah*-based obligations, is *Jihād* in the Path of Allāh, the Most High, in order to give victory to the Religion (*Dīn*) of Allāh, Glorified is He, and to rescue the nation (*Ummah*) from humiliation and disgrace and to establish the *Islāmic Khilāfah*; that obligation (*Farīdhah*) which all of the Muslims are sinful as long as it is absent (except those who are actively working to establish it), due to the statement of the Messenger of Allāh **صلى ا عليه و سلم**, *"Whoever dies while he does not have a Bay'ah upon his neck - he dies a death of Jāhiliyyah (pre-Islāmic Ignorance)."* [87] And what is meant is the "Pledge of Allegiance" (*Bay'ah*) to the *Imām*, and none else. [88] And the discussion concerning *Jihād* will come with some explanation within the matter of **"Fundamental Concepts Regarding *Al-Jihād*"**, [89] *In Shā' Allāh*. This is the Truth and the obligation (*Wājib*), whose time is limited, **and any group (*Jamā'ah*), which does not work in this path, (then) it is in error and negligent, <u>even if it establishes some of the other obligations of the Religion (*Dīn*)</u>.** [90]

So the obligation (*Wājib*) upon the Muslim is to support the group (*Jamā'ah*), which makes *Jihād* in the Path of Allāh. As for the other groups (*Jamā'āt*), there is no harm in assisting them, with two conditions: The first, that he does not take this assistance as an

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[87] Narrated by Muslim from Ibn 'Umar, may Allāh be pleased with them.

[88] Look to Pg. 160 of this treatise. **Trans. Note:** This is referring to the original book, which is not fully translated.

[89] **Trans. Note:** This chapter has been translated into English by **At-Tibyān Publications** and is available on their website.

[90] Look to the sixth obstacle of Ash-Shaytān, and that is "The Preoccupation of the Slaves, in Activities, Which are Less Important", (Pg. 13), which was extracted from "*Madārij As-Sālikīn*" (1/222-226).

reason to remain sitting (away) from the obligatory *Jihād*; And the second of the two- that his assistance of the other groups (*Jamā'āt*), does not interfere with his *Jihād*-oriented activities and that he is constant in his advising them concerning the obligation (*Wājib*) of *Jihād*. He, the Most High, said:

وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَى وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ

And help you one another in *Al-Birr* and *At-Taqwā* (virtue, righteousness and piety); but do not help one another in sin and transgression. [91]

And the groups (*Jamā'āt*), which do not work for *Jihād*, there is no problem for them to be numerous [92] unless some of them are harmed by the others. As for the groups (*Jamā'āt*) that work in *Jihād*, it is unlawful (*Harām*) for them to be numerous, because *Jihād* is not established except with force and strength, and being numerous (i.e. separate groups) detracts from force.

And the saying regarding the disapproval of having numerous groups (*Jamā'āt*) – even its forbiddance – has many evidences. From them, is His, the Most High's, statement:

وَاعْتَصِمُوا بِحَبْلِ اللهِ جَمِيعًا وَلَا تَفَرَّقُوا

And hold fast, all of you together, to the Rope of Allāh (i.e. this *Qur'ān*), and be not divided among yourselves. [93]

And His, the Most High's, statement:

وَلَا تَكُونُوا كَالَّذِينَ تَفَرَّقُوا وَاخْتَلَفُوا مِنْ بَعْدِ مَا جَاءَهُمُ الْبَيِّنَاتُ
وَأُولَئِكَ لَهُمْ عَذَابٌ عَظِيمٌ

[91] **Trans. Note:** *Al-Mā'idah*, 2
[92] Refer to (Pg. 139). **Trans. Note:** This is referring to the original book, which is not fully translated.
[93] *Āl-'Imrān*, 103

And be not as those who divided and differed among themselves after the Clear Proofs had come to them. And it is they for whom there is an Awful Torment. [94]

And the Messenger of Allāh صلى ا عليه و سلم said, *"There is to be no Dharar and no Dhirār."* [95] – narrated by Ad-Dāraqutnī from Abū Sa'īd (may Allāh be pleased with him). [96] And Al-Hākim narrated it from him and added, *"Whosoever harms, Allāh will harm him. And whosoever oppresses, Allāh will oppress him."* [97]

I say: This *Hadīth* has been disagreed upon, concerning the ruling upon it (i.e. authenticity). And it is narrated from a number of the companions (*Sahābah*). Az-Zayla'ī mentioned it's (various) paths but did not judge upon it. [98] However, from those who judged upon it, some of them said that it is not authentic as *Musnad*, [99]

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[94] *Āl-'Imrān*, 105

[95] **Trans. Note:** The literal translation of "*Dharar* and *Dhirār*" is "damage and damage" or "harm and harm". Due to this the scholars differed on what was exactly meant by this. It has come in "*Al-Muntaqā Sharh Muwatta' Mālik*", that the possible meanings are as follows:

1- That it was a confirmation of the forbiddance of damage and harm.

2- That *"There is to be no Dharar…"* means that it isn't upon anyone to be patient upon someone else's harm, *"… and no Dhirār,"* is that it is not allowed for that person to harm the other with anything other than that.

3- That *Dharar* is something you benefit from and others are harmed by, while *Dhirār* is that which harms others and you yourself have no benefit in.

4- That *Dharar* is one person harming another, while *Dhirār* is two people, each harming the other simultaneously.

[96] **Trans. Note:** Also narrated by Ibn Mājah and Ahmad on the authority of 'Ubādah Ibn As-Sāmit and 'Abdullāh Ibn 'Abbās and by Mālik on the authority of 'Amr Ibn Yahya Al-Māzinī from his father.

[97] **Trans. Note:** Also narrated by At-Tirmithī, Abū Dāwūd, Ibn Mājah and Ahmad from Abū Sirmah (may Allāh be pleased with him) with very similar phrasings. Ibn Taymiyyah declared one of the phrasings "*Hasan*" in "*Bayān Ad-Dalīl*" (608), and Al-Albānī declared it "*Hasan*" in "*Sahīh At-Tirmithī*" (1,584), "*Sahīh Abī Dāwūd*" (3,091) and "*Sahīh Ibn Mājah*" (1,897), as well as other places in his books.

[98] "*Nasb Ar-Rāyah"* (4/384-386)

[99] **Trans. Note:** "*Musnad*" (i.e. linked, connected etc.) Here, he means that some did not consider the chain of narration to be intact and linked all the way to the Prophet صلى ا عليه و سلم.

rather that it is only *Mursal*, as it was narrated by Mālik from Yahya Al-Māzinī as *Mursal*. [100] And from those who said this was Abū 'Umar Ibn 'Abdil-Barr. And from them were those who said that it is a *Hasan Hadīth*, due to its various paths, which strengthen one another. This was stated by Ibn As-Salāh, An-Nawawī and Ibn Rajab. [101] And Al-Hākim said that it is *Sahīh* upon the conditions of Muslim, and Al-Albānī rejected this upon him. Then *Shaykh* Al-Albānī authenticated it, due to its numerous paths and pointed to what Al-Munāwī narrated in "*Faydh Al-Qadīr*", from An-Nawawī and from *Al-Hāfith* Al-'Ala'ī. [102] I say: So what harm is greater upon the Muslims and more encompassing than them being divided? And if the Muslims are separated among dozens of groups, then how can they gather strength and force for themselves, with which they can confront their enemies? And the force of *Islām* is not formed except with the *Īmān*-Based Allegiance, by the Muslims allying themselves to one another and their unification. Just as *Al-Mawla* (i.e. Allāh), *Jalla Wa 'Alā*, said:

وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ
وَيُقِيمُونَ الصلاةَ وَيُؤْتُونَ الزكاةَ وَيُطِيعُونَ اللهَ وَرَسُولَهُ أولِئكَ سَيَرْحَمُهُمُ اللهُ
إن اللهَ عَزِيزٌ حَكِيمٌ

The Believers, men and women, are *Awliyā'* (helpers, supporters, friends, protectors) of one another, they enjoin (on the people) *Al-Ma'rūf* (i.e. *Islāmic* Monotheism and all that *Islām* orders one to do), and forbid (people) from *Al-Munkar* (i.e. polytheism and disbelief of all kinds, and all that *Islām* has forbidden); they perform *As-Salāt* and they give *Az-Zakāt*, and they obey Allāh

[100] **Trans. Note:** "*Mursal*" (i.e. disconnected, unattached etc.) Here, he means that some considered the chain of this narration to be disconnected between the one who narrated it from the Prophet **صلى ا عليه و سلم** with no link between them in the chain. This usually occurs when someone from the succeeding generation to the Companions (i.e. the *Tabi'īn*) narrates something directly from the Prophet صلى ا عليه و سلم without mentioning the Companion (*Sahābī*) whom he learned it from.

[101] "*Jami' Al-'Ulūm Wal-Hikam*" (Pg. 266)

[102] "*Irwā' Al-Ghalīl Takhrīj Ahādīth Manār As-Sabīl*" (3/408-414), *Hadīth* #896
Trans. Note: Declared "*Hasan*" by An-Nawawī in "*Al-Arba'ūn An-Nawawiyyah*" (32), "*Bustān Al-'Ārifīn*" (35), and "*Al-Athkār*" (502).

and His Messenger. Those are the ones whom Allāh will have His Mercy on. Surely Allāh is All-Mighty, All-Wise. [103]

And consider this Verse. You will find that Allāh placed the Commanding of the Good and the Forbidding of the Evil, ahead of establishing the prayer (*As-Salāt*) and the alms-giving (*Az-Zakāt*), even though these two are from the five pillars of *Islām*. Most likely, the delicate treasure behind this is that it is possible for the prayer (*As-Salāt*) and the alms-giving (*Az-Zakāt*) to be established by the Muslim individually or with a small group, whereas Commanding the Good and Forbidding the Evil requires strength and force, which is not achieved except through allegiance and alliance from the Believers towards one another. And when the Verse began by mentioning the allegiance of the Believers, it was befitting that the Commanding and Forbidding precede the prayer (*As-Salāt*) and the alms-giving (*Az-Zakāt*), in order to emphasize the importance of allegiance in establishing the Commanding and the Forbidding. And this is similar to His, the Most High's, statement:

وَالَّذِينَ كَفَرُوا بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ إِلا تَفْعَلُوهُ تَكُنْ فِتْنَةٌ فِي الْأَرْضِ وَفَسَادٌ كَبِيرٌ

And those who disbelieve are allies to one another, (and) if you do not do so (become allies as one united block), there will be *fitnah* (wars, battles, polytheism, etc.) on earth, and a great corruption. [104]

In other words, if the Believers do not ally themselves with one another, as the disbelievers do, there will be a great trial (*fitnah*) and corruption (*fasād)*. And that is because the disbelievers (*kāfirīn*) are united; facing the Believers individually. So they kill them and torture them and put them through trials (*fitan*) regarding their Religion (*Dīn*). And they raise the laws of disbelief (*kufr*), so what trial (*fitnah*) and corruption (*fasād)*, is greater then this? And Allāh, the Most High, has said:

103 *At-Tawbah*, 71
104 *Al-Anfāl*, 73

وَلَوْلاَ دَفْعُ اللّهِ النَّاسَ بَعْضَهُمْ بِبَعْضٍ لَفَسَدَتِ الأَرْضُ

And if Allāh did not check one set of people by means of another, the Earth would indeed be full of corruption. [105]

So how can the strength, which is a necessity in order to repel the disbelievers (*kāfirīn*) and their corruption (*fasād)*, come to the Muslims while the Muslims are divided? So there is no doubt that the Muslims – because of their divisions – are responsible for a great deal of this corruption (*fasād)*. And Allāh, the Most High, has said:

وَمَا أَصَابَكُمْ مِنْ مُصِيبَةٍ فَبِمَا كَسَبَتْ أَيْدِيكُمْ

And whatever of misfortune befalls you, it is because of what your hands have earned. [106]

So what is to be done, if they (i.e. the *Jihād* groups) are numerous? That which I see – and Allāh, the Most High, knows best – is that the newer groups (*Jamā'āt*) should join the oldest group (*Jamā'ah*). Likewise, the obligation upon the Muslim is to work with the oldest *Jamā'ah* from those working for *Jihād*. And the Pledge of Allegiance (*Bay'ah*) given to any newer *Jamā'ah* is void (*Bātil*), even if it was ignorant of the presence of the older *Jamā'ah*. And my evidence for this, is the *Hadīth* of Abū Hurayrah (may Allāh be pleased with him), *Marfū'* [107]: *"The Children of Isrā'īl used to be ruled and guided by their Prophets. Whenever a Prophet died, another Prophet succeeded him. And verily, there is no Prophet after me, and there will be successors (Khulafā') who will become many."* They asked, "Then what

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[105] *Al-Baqarah*, 251

[106] *Ash-Shūrā*, 30

[107] **Trans. Note:** The term "*Marfū'*", lit. "raised up", refers to those narrations, which are raised up to the Messenger of Allāh **صلى ا عليه وسلم**, whether they are an action or a statement, and whether they are narrated with intact chains or not. It is also not a condition for it to be attributed to the Prophet **صلى ا عليه وسلم** by the Companion, according to the majority of the scholars, while *Al-Khatīb* said that Companion must attribute it to the Prophet **صلى ا عليه وسلم**. Look to "*Al-Bā'ith Al-Hathīth Sharh Ikhtisār 'Ulūm Al-Hadīth*" (Pg. 43). Published by, "*Dār Al-Kutub Al-'Ilmiyyah*" Beirut.

do you order us (to do)?" He said, "*Fulfill the (rights of the) Pledge of Allegiance (Bay'ah) of the earliest then the (second) earliest, and give them their right (of allegiance etc.), because Allāh will ask them about what He made them responsible for.*" [108] And I have used this *Hadīth* as evidence for what I have said, because the cause of the disapproval of having numerous leaders is the (same) cause for our disapproval of numerous groups (*Jamā'āt*) - and that is the preservation of the unity of the Muslims. And he صلى ا عليه و سلم, has clarified this cause, in more than one *Hadīth*. From them are those which Muslim narrated from 'Arjafah, as *Marfū'*: "*There will be trials and (more) trials. So whoever wishes to divide the matter of this nation (Ummah), while it is together; then strike him with the sword, no matter who he is.*" [109] And he also narrated from him, as *Marfū'*: "*Whoever comes to you, while your matter is together upon one man, desiring to sow dissension or divide your Jamā'ah - then kill him.*" And Muslim narrated from Abū Sa'īd Al-Khudrī (may Allāh be pleased with him), *Marfū'*: "*If two Khalīfahs are given the Pledge of Allegiance (Al-Bay'ah), then kill the latter of the two.*" So look to these *Hadīths*, which order the killing of the latter. And An-Nawawī said, 'If his evil is not repelled except by killing him, then he is killed, even if he is superior to the first *Khalīfah*, because the emergence of the superior does not nullify the contracted Pledge of Allegiance (*Bay'ah*) of the inferior." [110] And the killing of the other *Khalīfah*; on its outward appearance (*Thāhir*), it is a harm and mischief because it is the killing of a person who combines the full descriptions by which he would deserve the status of *Khilāfah*. However, the order to carry this out is narrated to repel a greater harm, which is the division of the word (opinion) of the Muslims, which clarifies to you the great status of this *Sharī'ah*-based benefit (*Maslahah*), which is the preservation of the unity of the Muslims. And this is one of the practical examples, (which engages) many of the Principles of Jurisprudence (*Fiqh*). From them are the principle: "The Specific Harm is Tolerated to Repel the

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[108] Agreed upon
Trans. Note: Al-Bukhārī and Muslim. This *Hadīth* was also narrated by Ahmad, and this phrasing is a mix between the three narrations.
[109] **Trans. Note:** Also narrated by Ahmad with this phrasing. Other similar phrasings also narrated by An-Nasā'ī, Abū Dāwūd and Ahmad.
[110] Al-Māwardī's "*Al-Ahkām As-Sultāniyyah*" (Pg. 8)

General Harm," and the principle: "The More Severe Harm is Removed by the Lesser Harm," and the principle: "When Two Harms Conflict, the Greater of the Two is Prevented by Committing the Lesser," and the principle: "The Lesser of the Two Evils is Chosen." **111**

An-Nawawī said in the explanation of the aforementioned *Hadīth* of Abū Hurayrah (may Allāh be pleased with him), *"… and there will be successors (Khulafā') who will become many."* They asked, "Then what do you order us (to do)?" He said, *"Fulfill the (rights of the) Pledge of Allegiance (Bay'ah) of the earliest then the (second) earliest…"* He (i.e. An-Nawawī) said, "And in this *Hadīth* is a clear miracle of the Messenger of Allāh **صلى ا عليه وسلم**. And the meaning of this *Hadīth* is that if a *Khalīfah* is given the Pledge of Allegiance (*Bay'ah*), after a *Khalīfah* (the original), then the *Bay'ah* of the first remains intact (*Sahīh*), and the fulfillment of it is obligatory (*Wājib*) and the *Bay'ah* of the second is void (*Bātil*), and the fulfillment of it is unlawful (*Harām*). And it is unlawful (*Harām*) upon him to request it. And it is the same if they contracted the second, knowing about the former contract (*'Aqd*), or even if they were ignorant (of it). And it is the same if they are in two countries or one country, or if one of the *Khalīfah*s is in the separated country of the *Imām* and the other is in another. This is the correct (opinion), which our companions (i.e. the Shāfi'īs) and the majority of the scholars (*'Ulamā'*) are upon. And it was said, 'The *Bay'ah* would be for he who it was contracted to within the country of the *Imām*.' And it was said, 'Straws are drawn between them.' And these are both false and the scholars (*'Ulamā'*) have agreed that it is not permissible to have two *Khalīfahs* in one era, whether the *Dār Al-Islām* (Land of *Islām*) has expanded widely or not." **112**

And Al-Māwardī said in (his book entitled) "*Al-Ahkām As-Sultāniyyah*", Pg. 9, "And the correct (opinion) in that, is that the (authority) of Leadership (*Imāmah*) belongs to the earliest of them

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111 "*Sharh Al-Qawā'id Al-Fiqhiyyah*", by *Shaykh* Ahmad Az-Zarqā: Rule #25-28, publication 1403 H.

112 "*Sahīh Muslim Bi'Sharh An-Nawawī*" (12/221-222)

who has been given the Pledge of Allegiance (*Bay'ah*) and was contracted."

And Abū Ya'lā said in (his book, also entitled) "*Al-Ahkām As-Sultāniyyah*", Pg. 25, "And if the contract is for each of them separately, then it is to be investigated. Then if the earlier of the two becomes known, the contract of the second one becomes void."

Due to this, I arrived at the disapproval of the numerous groups (*Jamā'āt*) because of what it causes of dividing the unity of the Muslims and killing their abilities and making them into parties and spreading enmity and hatred between them. And if we add the plotting of the enemies of *Islām* on top of this, then all of the ingredients for failure are complete for the Muslims. And this is the current state of affairs (*Al-Wāqi')*, in reality.

And perhaps the noble reader has noticed that I did not state the disapproval of numerous groups, due to analogy (*Qiyās*) upon having multiple *Khalīfahs*. This is because the analogy (*Qiyās*) is incorrect here, because the description of the *Khalīfah* is non-existent with regards to the *Amīrs* of the groups. And this description is the looking to the general benefits of the Muslims and this is for the *Khalīfah* and none other than him. And because of this, I did not clearly state an analogy (*Qiyās*), due to the incompleteness of the reason for the ruling (*'Illah*). However, I have used as an evidence, this *Hadīth*: *"Fulfill the (rights of the) Pledge of Allegiance (Bay'ah) of the earliest then the (second) earliest…"* from the point of considering the aims of the *Sharī'ah* – in other words, the aims of the Legislator (i.e. Allāh), in this ruling. And that is what is obligatory to bear in mind, while deriving rules for that which there is no text related. And the aim of the Legislator (i.e. Allāh) in the disapproval of multiple *Khalīfahs,* is to safeguard of the unity of the nation (*Ummah*), and this is (also) what we have used as evidence for stating the disapproval of multiple groups and from the obligation of the newer joining the older, due to the harms that result from being numerous, which are not hidden from anyone. And Ash-Shātibī (may Allāh be merciful to him) said, "The looking to the results of actions is something that is taken into account and

sought out in the Legislation, whether the actions are in compliance or opposition – in other words, permitted or forbidden. And that is that the *Mujtahid* does not judge upon a single action from the actions, which comes from the *Mukallifīn* (those considered responsible in the *Sharī'ah*), whether it is in committing (that action) or refraining from it, until he investigates what the result of that action would be." And he (may Allāh be merciful to him) brought the evidences that indicate that the results are to be considered in the basis (*Asl*) of legislation. [113]

And what I mentioned previously concerning what to do when there are multiple groups, from the obligation of the subsequent joining the previous and the newer to the older; I see that this should be a basis (*Asl*) which is acted upon. And it is not correct to consider other descriptions such as quantity (of people) or more knowledge, because these are unfixed descriptions. For example, the large party (*Tā'ifah*), it is possible that another *Tā'ifah* will come after it, which is larger in number. And the *Tā'ifah* which has some '*Ulamā'* in it; it is possible that there would be another one like it or one that will come after it (with more knowledgeable scholars). So these are unfixed descriptions and the rule in the *Sharī'ah* is to come with that which can be restricted and is precise. And from here, we say that what is considered is the seniority, as this is a description which can be restricted and is precise and it (i.e. this rule) complies with regards to "earliness and rushing", as in His, the Most High's, statement:

لَا يَسْتَوِي مِنكُم مَنْ أَنفَقَ مِن قَبْلِ الْفَتْحِ وَقَاتَلَ أُوْلَئِكَ أَعْظَمُ دَرَجَةً مِنَ الَّذِينَ أَنفَقُوا مِن بَعْدُ وَقَاتَلُوا

Not equal among you are those who spent and fought before the Conquest (of Makkah) (with those among you who did so later). Such are higher in degree than those who spent and fought afterwards. [114]

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[113] "*Al-Muwāfaqāt Fī Usūl Ash-Sharī'ah*" (4/194-198), publication "*Dār Al-Ma'rifah*"
[114] *Al-Hadīd*, 10

(With the condition that) the earlier (group) is upon correct *Sharī'ah*-based principles (*Usūl)* **[115]** and that it is truthful in its implementation; and if it is disputed as to which was earliest, then it an arbitrator is to be appointed (to settle the dispute). And this helps close the door of becoming parties and multiple (groups), which weakens the force of the Muslims. And it is impossible that the *Sharī'ah* would not have a ruling for the likes of this calamity, while He, the Most High, said:

فَإِن تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ

Then if you differ in anything amongst yourselves, then refer it to Allāh and His Messenger. [116]

And this is a general phrasing, which encompasses everything that is disagreed upon.

This is what I see concerning the issue of having multiple groups within one country specifically. However, if there are multiple countries, then there is an opening for multiple working groups according to the number of these countries. And An-Nawawī has stated regarding the description of *At-Tā'ifah Al-Mansūrah*, "… and it is not necessary for them to be altogether, rather they could be spread out in different areas of the Earth." **[117]** And if the groups are multiplied according to the number of countries, then a group takes over a country, and from it emerges an *Imām* for the Muslims, then it is obligatory (*Wājib*) upon all the remaining groups to enter under his authority and to migrate (*Hijrah*) to him, in order to support him and strengthen his authority. Ahmad Ibn Hanbal said, "And whoever overpowers them with the sword, until he becomes the *Khalīfah* and is called '*Amīr Al-Mu'minīn*' - then it is not permissible for anyone who believes in Allāh and the Last Day, to pass the night without recognizing him as an *Imām*." **[118]** And this

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[115] Review the issue of **"The Principles of Holding Steadfast to the Book and the *Sunnah*"** within "The *Īmān*-Based Preparation".
[116] *An-Nisā'*, 59
[117] "*Sahīh Muslim Bi'Sharh An-Nawawī*" (13/67)
[118] Refer to "*Al-Ahkām As-Sultāniyyah*" (Pg. 23), by Abū Ya'lā.

(saying) which *Imām* Ahmad said, Ibn Al-Battāl narrated consensus (*Ijmā')* upon it. [119]

I say: So it is not correct to have multiple groups within one country; however, it is possible to have multiple ones in accordance with the number of countries, even though unity would be more befitting. But if conditions make this impossible, then there is nothing less than these groups in different counties cooperating in matters of experience (*Khibrah*) and preparation (*I'dād*). And also, if a group has found it impossible to make changes within its country, then it is upon it to perform the emigration (*Hijrah*) [120], and it must migrate to assist its brothers in the country which it is assumed that *Islāmic* change would be successful in. (That is,) unless the *Amīr* of this strong party (*Tā'ifah*) orders the weak *Tā'ifah* to remain in its country for a correct *Sharī'ah*-based reason, such as *Da'wah* or the likes of this, just as the Prophet صلى ا عليه وسلم ordered Abū Tharr (may Allāh be pleased with him) with that. [121] And if a group takes over any country, and raises up an *Imām* from the Muslims, then it is obligatory (*Wājib*) upon them all to perform migration (*Hijrah*) to him, and to support him and obey him. This is what I see, and Allāh knows best what is correct.

And from what is not necessary to mention, is that the earliest, which is to be joined; its stipulation is that it is upon the Truth, holding steadfast to the *Sharī'ah*; acting upon it and performing *Jihād* to make it dominant above all other religions. And not included in this, are the groups which play with the Legislation of Allāh, such as those who strive for the ruling of *Islām* by means of the *shirk* of Democracy and the secularist parliaments and the likes of those, which many have fallen into in the name of "*Da'wah to Islām*". So they have gone astray and lead astray many of the people and they followed the footsteps of Satan (*Ash-Shaytān*). And he (i.e. *Shaytān*)…

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[119] "*Fat'h Al-Bārī*" (13/7)
[120] As stated by *Al-Qādhī* 'Iyādh; "*Sahīh Muslims Bi'Sharh' An-Nawawī*" (2/229).
[121] Narrated by Al-Bukhārī (3,861).

يَعِدُهُمْ وَيُمَنِّيهِمْ وَمَا يَعِدُهُمُ الشَّيْطَانُ إِلَّا غُرُورًا

… makes promises to them, and arouses in them false desires; and Shaytān does not promise them but deceptions. [122]

So they destroyed the ability of thousands of young men by making them impoverished unto and submissive towards the *Tawāghīt* **[123]** rulers, in contradiction to what the Legislation necessitates, of the obligation of fighting against them. So what astrayness is beyond this?

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[122] *An-Nisā'*, 120

[123] **Trans. Note:** *Tawāghīt*: plural of "*Tāghūt*"; which refers to everything that is worshipped other than Allāh. In this above context, the author is using this word to refer to the rulers who legislate laws, which oppose the Islamic *Sharī'ah* and then rule with these laws between the people.

Shaykh Al-Islām Ibn Taymiyyah said, "The meaning of '*Tāghūt*' comes from the one who performs '*Tughyān*' and this means going outside the established borders (i.e. exceeding his limits) and it is *thulm* (wrong doing) and rebellion. So the one who is worshiped instead of Allāh and he doesn't hate it, then he is a *Tāghūt*. And for this reason the Prophet صلى ا عليه و سلم called the idols "*Tawāghīt*" (plural of *Tāghūt*) in the *Sahīh Hadīth* in which he said, '*Tawāghīt* will follow the people who worship the *Tawāghīt*.' The person who is obeyed in disobedience of Allāh or the person who is obeyed in following other than the guidance of the *Dīn* of truth; in either case, if what he orders mankind is in opposition to Allāh's orders, then he is a *Tāghūt*. For this reason, we call the people who rule by other than what Allāh revealed, a '*Tāghūt*.' And Pharaoh and the people of *'Ād*, were *Tughāt* (plural past tense)." ["*Majmū' Al-Fatāwā*" (28/200)]

And Ibn Al-Qayyim said, "The term '*Tāghūt*' refers to all things in which the slave (i.e. human) exceeds his limits whether it takes the form of someone who is worshiped or obeyed. So a *Tāghūt* refers to all people who rule by other than what Allāh or His Messenger rules. This would also apply in the case that the people worship him besides Allāh or they follow him without sight from Allāh or they obey him when they aren't sure if they are obeying Allāh. So these are the *Tawāghīt* of the world; and if you look at them and see the condition of the people with them, you will see that most of them have switched from worshipping Allāh to worshipping the *Tāghūt* - from ruling by what Allāh and His Messenger ruled, to the ruling of the *Tāghūt*, and from obeying Him and His Messenger to obeying the *Tāghūt* and following him." [" *I'lām Al-Muwaqqi'īn"* (Pg. 50)]

And this is what has to do with the refutation of the first objection of the author of the book "*Al-Bay'ah Bayn As-Sunnah Wal-Bid'ah*", with respect to the leadership (*Imārah*) of the *Islāmic* groups, and it is the first of his objections. And I have made clear in my refutation of him, that there are other texts, which affirm the correctness and obligation of this leadership (*Imārah*) and that its analogy (*Qiyās*) upon the leadership of traveling is a correct analogy (*Qiyās*). And it was mentioned by more than a single *Mujtahid*; for example, Ibn Taymiyyah and Ash-Shawkānī. And I also made clear that it is obligatory (*Wājib*) for these groups to establish the matters of the Religion, especially in the absence of the (general) leadership (*Imāmah*) and the *Islāmic Khalīfah*. And I have discussed some of what I see beneficial for the Muslims. And all praise is due to the Lord of the Worlds.

And in what follows, is the refutation upon the fourth of his objections:

The Refutation of the Fourth Objection

The Fourth Objection: And that is the statement of Mr. 'Alī Ibn Hasan, **"If a people agree amongst themselves in establishing the *Islāmic* penalties (*Al-Hudūd*)…"** – until his statement – **"…it is false according to the consensus (*Ijmā'*) of the nation (*Ummah*)…"**

And I say in the refutation against him, if a people agree amongst themselves to establish the *Sharī'ah*-based laws, then their situation could not be except from one of two possible situations.

The *first* would be that they are within a country where a Muslim *Imām* rules it and the laws of the *Sharī'ah* are established within it.

And the *second* is that they are in a country that does not have a Muslim *Imām,* nor does the *Sharī'ah* rule it.

And in the first condition, in the Land of *Islām*, where the Laws of the *Sharī'ah* dominate it and a Muslim *Imām* rules it, and the judges

appointed by the *Imām* take responsibility for the ruling among the people within it; I say that even in this condition, it is allowed for the people to take their judgments to a man who is worthy of judgment, if they agree to, as opposed to the judge (*Qādhī*) of the *Imām*, and his judgments (i.e. the judge they select) are held upon them (i.e. those who sought the judgment). And this is what was approved by the master jurists, as follows:

- Ibn Dhuwayyān said in "*Sharh Ad-Dalīl*", " 'So if two or more people take a judgment to a person who is worthy of judgment, his ruling is applied in everything that the ruling of he whom the *Imām* or his deputy puts in charge, would be applied.' Due to the *Hadīth* of Abū Shurayh (may Allāh be pleased with him) and in it, there is that he stated, 'O Messenger of Allāh, if my people disagree concerning something, they come to me, and I judge between them, and both parties are pleased.' He said, *'How beautiful this is!'* – Narrated by An-Nisā'ī. 'And 'Umar and Ubay sought judgment from Zayd Ibn Thābit (may Allāh be pleased with them); and 'Uthmān and Talhah took judgment to Jubayr Ibn Mut'im (may Allāh be pleased with them). And none of them were judges.'" – He said in the *Matn* (original text) – "And the disagreement is removed, and it is not allowed for anyone to nullify it if he has arrived at the truth." – He said in the *Sharh* (explanation) – "… because whoever is permitted to judge; then it (i.e. his verdict) is implemented as the judge of the *Imām*." **[124]**

And the *Hadīth* of Abū Shurayh was authenticated by *Shaykh* Al-Albānī. **[125]**

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[124] "*Manār As-Sabīl Sharh Ad-Dalīl*" (2/459), published by "*Al-Maktab Al-Islāmī*", 1404 H.

[125] "*Irwā' Al-Ghalīl*" (8/2,615)

Trans. Note: Also authenticated by him in "*Sahīh Abī Dāwūd*" (4,145), "*Sahīh An-Nasā'ī*" (4,980) and other places, and Al-Wādi'ī declared it "*Hasan*" in "*Al-Jāmi' As-Sahīh*" (5/319, 6/162), and other places in that book, as well as "*As-Sahīh Al-Musnad*" (1,197).

- And Ibn Qudāmah explained this issue in his book "*Al-Kāfī*" [126] and his book "*Al-Mughnī Wash-Sharh Al-Kabīr*".[127] And here are his words from "*Al-Mughnī*": "Chapter: And if two men seek judgment (*Tahākum*) from someone whom they both select him as an arbitrator, and they are both satisfied with him, and he is from those worthy of arbitration - then he can judge between them, and this is permitted and his judgment (*Hukm*) is implemented upon them. And this was stated by Abū Hanīfah, and Ash-Shafi'ī has two statements (attributed to him); the first being that his judgment (*Hukm*) is not held upon them unless both (parties) are satisfied, because his judgment emerged from their being content with him and being content could not be until after knowing his judgment (*Hukm*).

  But we have what Abū Shurayh (may Allāh be pleased with him) narrated; that the Messenger of Allāh صلى ا عليه وسلم said to him, '*Verily Allāh is 'Al-Hakam', so why have you taken the Kunyah (i.e. calling oneself 'Abū so-and-so') of Abū Al-Hakam (Father of Al-Hakam)?'* He said, 'Verily, if my people dispute in some matter, they come to me. So I judge between them and then both parties are satisfied with me.' He said, *'How good is this? So who is your eldest child?'* He said, 'Shurayh.' He said, *'Then you are Abū Shurayh.'* – Narrated by An-Nisā'ī.

  And it is narrated from the Prophet صلى ا عليه وسلم that he said, *'Whoever judges between two, who are satisfied with him, and then he is unjust between them, then he is cursed!'*[128] And if his judgment (*Hukm*) were not held upon them, then he would not have been indignated (i.e. the curse would not have been on him). And because 'Umar and Ubay took judgments to Shurayh (may Allāh be pleased with them), before he appointed him in an official position of authority. And 'Uthmān and Talhah took judgments to Jubayr Ibn Mut'im (may Allāh be please with them) even though they were not judges.

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[126] Refer to Vol. 4/436, published by "*Al-Maktab Al-Islāmī*", 1402 H.

[127] Vol. 11/483-484

[128] **Trans. Note:** Refer to "*At-Talkhīs*" (4/185) of Ar-Rāfi'ī, and also Ibn Qudāmah's "*Al-Mughnī*" (11/484).

So if it is said, "But 'Umar and 'Uthmān were both *Imāms*, so if they leave judgment up to a man, then he becomes a judge (*Qādhī*)," we would reply, 'Nothing is narrated from them besides them accepting his arbitration specifically, and this (alone) does not make him a judge (*Qādhī*). And that which he mentioned is nullified by the fact that if he is satisfied with the action of the one whom he entrusted this responsibility to, because he is bound by it, before (even) knowing it. If this is confirmed, then it is not allowed (for the *Imām*) to veto his judgment (*Hukm*), in that which the judgment of the one who has authority cannot be nullified. [129] And this was stated by Ash-Shāfi'ī. And Abū Hanīfah said, 'The ruler (*Hākim*) can nullify it if it contradicts his opinion, because this is a contract which belongs to the ruler (*Hākim*). So he owns its veto just as the temporarily suspended contract (*Mawqūf 'Aqd*) in his regards.'

But we have (as evidence, the fact) that this is a valid, binding ruling (i.e. the verdict issued by the arbitrator), so it is not allowed to veto it (merely) because it contradicts his (i.e. the ruler's) opinion, as (is in the case of) the judgment (*Hukm*) of he who has an official position. And that which they (i.e. the Hanafīs) mentioned, is incorrect, because his judgment (*Hukm*) is binding upon the two plaintiffs, so how can it be temporarily suspended (*Mawqūf*)? And if it were like that, then he would own its veto, even if it did not contradict his opinion, and we do not agree with the temporary suspension of contracts.

If this is established, then it is allowed for each of the plaintiffs to turn back from appointing him as an arbitrator before he begins judging, because it is not established except with him being satisfied (with that individual as an arbitrator). So this resembles if he (i.e. a plaintiff) had changed his mind regarding entrusting the responsibility (i.e. of judgment) prior to conducting (the procedure of judging). And if he (i.e. a plaintiff) changed his mind after the commencement, then there are two points of view: The first of the two; it is permitted for him because the ruling was not completed

[129] **Trans. Note:** Meaning that anything in which the *Imām* is not allowed to veto the ruling of an official judge, the unofficial judge, or arbitrator is equal in that regards, in this opinion being mentioned.

so this resembles the condition prior to the commencement (of the verdict). And the second; it is not permitted for him because this would lead to each of the two turning back from the *Hakam* (arbitrator) when he sees something that he does not agree with, therefore the intended objective (i.e. a judgment) becomes nullified.

Lesson: *Al-Qādhī* ('Iyādh) said, 'And the verdict (*Hukm*), of he who they select as a judge, is to be carried out in all affairs, except for four: marriage, oaths of condemnation,[130] 'falsely accusing a chaste woman of *Zinā'*, and *Qisās* [i.e. equity in retribution (i.e. an eye-for-an-eye etc.)], and because these laws have an (added) trait over others. So the *Imām* is specified to investigate it (i.e. these matters) and his deputy can take his place.'

And Abul-Khattāb said, 'What is apparent from the words of Ahmad is that his (i.e. the selected arbitrator's) verdict (*Hukm*) is to be carried out on them (i.e. all these matters), and for the companions of Ash-Shāfi'ī, there are two opinions similar to these two. And if this arbitrator writes to any of the judges (*Qudhāt*) of the Muslims, (informing him) of what he judged, then he (the judge) must accept this (declaration) and carry out his writing, because he is a judge who implements the laws. So he must accept his writing just as (he would) from the judge of the *Imām*.' " – this concludes the words of Ibn Qudāmah from "*Al-Mughnī*"

- And Ibn Qudāmah also said in "*Al-Kāfī*", "And our companions have disagreed concerning that in which seeking arbitration is permissible. As Abul-Khattāb said, 'What is apparent from the words of Ahmad, is that it is allowed to select a judge in everything, which two plaintiffs ask for a verdict in, due to the *Qiyās* (analogy) with the judge (*Qādhī*) of the *Imām*.' And *Al-Qādhī*

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130 **Trans. Note:** As in the words of Allāh, the Most High:

وَالذِينَ يَرْمُونَ أَزْوَاجَهُمْ وَلَمْ يَكُن لهُمْ شُهَدَاء إِلا أَنفُسُهُمْ فَشَهَادَةُ أَحَدِهِمْ أَرْبَعُ شَهَادَاتٍ بِاللهِ إِنهُ لَمِنَ الصادِقِينَ

And for those who accuse their wives, but have no witnesses except themselves, let the testimony of one of them be four oaths by Allāh that he is one of those who speak the truth. (An-Nūr, 6)

('Iyādh) said, 'It is permissible for him to arbitrate only in (disputes regarding) wealth. As for marriage and *Qisās* (i.e. equity in retribution) and the penalty for 'falsely accusing a chaste woman of *Zinā'* – then arbitration is not permissible in these affairs, because these are based upon precaution. So the ruling (*Hukm*) of the judge of the *Imām* (in these matters) is required, just as in the *Hudūd* (i.e. penalties of punishment)." **[131]**

I say: And the saying of Ibn Al-Munthir, which will be presented, is similar to the saying of Ahmad Ibn Hanbal, which is that seeking arbitration is permissible in all forms of disputes. And he (i.e. Ibn Al-Munthir) narrated a consensus (*Ijmā')* upon that. And the saying of the author of "*Manār As-Sabīl*" has passed, concerning the judgment (*Hukm*) of the arbitrator being carried out in everything that the judgment of the judge (*Qādhī*) of the *Imām* is carried out in, and he did not mention any difference of opinion upon that. So this indicates that this is the most correct opinion with the Hanbalīs.

- And the story of 'Umar and the Bedouin taking judgment to Shurayh, which was mentioned by Ibn Qudāmah; Ibn Al-Qayyim narrated it in "*I'lām Al-Muwaqqi'īn*". **[132]** He said, " 'Alī Ibn Al-Ja'd said, 'Shu'bah informed us from Sayār, from Ash-Sha'bī, who said, ''Umar took a horse from a man in good condition and over-loaded it and it became lame. So the man disputed with him, so 'Umar said, 'Put between myself and you, a man (to judge this matter for us).' So the man said, 'I am satisfied with Shurayh Al-'Irāqī.' So Shurayh said, 'You took it from him in good condition and healthy, so you are indebted to him until you return it in good condition and it was healthy.' He said, 'This seemed to impress him (i.e. 'Umar), so he sent him forth as a judge (*Qādhī*) and said, 'Whatever is clear to you from the Book of Allāh, then do not question it. Then if it is not clear from the Book of Allāh, then from the *Sunnah*. Then if you do not find it in the *Sunnah*, then perform *Ijtihād* with your opinion."

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[131] "*Al-Kāfī*" (4/436), by Ibn Qudāmah, published by "*Al-Maktab Al-Islāmī*".
[132] Vol. 1/85

- *Imām Al-Haramayn* Al-Juwaynī said, "And the saying of Ash-Shāfi'ī (may Allāh be merciful to him) differs concerning he who puts a *Mujtahid* as an arbitrator in a time when the *Imām* has already established the Laws of the Muslims. Is the verdict (*Hukm*) of the arbitrator (*Muhakkam*) carried out? One of his two sayings is – and this is what is apparent from the School of Thought (*Math'hab*) of Abū Hanīfah (may Allāh be merciful to him) – is that his verdict (*Hukm*) is carried out in that which the verdict (*Hukm*) of the judge (*Qādhī*) - who is appointed by the command of the *Imām* - is carried out in. And this saying is based upon analogy (*Qiyās*). I do not see the need to lengthen the discussion of its reason." **[133]**

- And as for that which the author (i.e. 'Alī Al-Halabī), claimed regarding the falsehood of seeking judgment from other than the judge (*Qādhī*) by consensus (*Ijmā')* of the *Ummah*; it is rejected upon him. Rather, *Al-Imām* Abū Bakr Ibn Al-Munthir mentioned in his book "*Al-Ijmā'*", the opposite of what the author has stated. As he said, "*Ijmā'* #254: And they have consensus (*Ijmā')* upon (the validity) if a judge other than the *Qādhī* makes a judgment, it is permitted as long as it is from what is permitted." **[134]** And the meaning of his saying, "… judge other than the *Qādhī*…" – in other words, a judge who has not been appointed by the *Imām*, in other words, other than the judge of the *Imām*. And his saying, "… as long as it is from what is permitted," – in other words, if what this *Qādhī* judged with is from that which is permitted in the *Sharī'ah*. And *Shaykh Al-Islām* Ibn Taymiyyah has said, "And the "*Qādhī*" is a name for everyone who judges between two (plaintiffs) and rules between them, whether he is a *Khalīfah* or *Sultān* or a deputy (*Nā'ib*) or governor (*Wālī*) or if he is set up to rule with the Legislation or his deputy, or even he who judges between the children in calligraphy, if they choose. Like this, the Companions of the Messenger of Allāh **صلى ا عليه وسلم** have mentioned, and this is clear." **[135]**

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[133] "*Al-Ghiyāthī*" (Pg. 389), 2nd edition, with the '*Tahqīq* ' (i.e. verification) of Dr. 'Abdul-'Athīm Ad-Dīb, 1401 H.
[134] "*Kitāb Al-Ijmā'*" (Pg. 75), published by "*Dār Taybah*", 1402 H.
[135] "*Majmū' Al-Fatāwā*" (28/254)

- And from the evidences for the permissibility of arbitration and the implementation of the judgments of other than the *Imām* and his judges, is that if the *Bughāt* [136] conquer a country and rule it with the Legislation and they collect money from it according to the Legislation, then these judgments of theirs are implemented and the Just *Imām* must not nullify them if he conquers this country (afterwards). As Ibn Qudāmah has stated, "And if the people of unlawful rebellion (*Baghy*) set up a judge (*Qādhī*), who is worthy of judgment, then the ruling upon him is the ruling upon the People of Justice. His judgments are implemented in that which the judgments of the People of Justice are implemented in, and rejected from them what is rejected…" [137] And Ibn Qudāmah also said, "And if they (i.e. the *Bughāt*) conquer a country and they establish the *Hudūd* in it and they take the *Zakāt* and the *Jizyah* and the *Kharāj* (land tax) - then this is to be taken into account, because 'Alī did not redo what the people of *Al-Basrah* had set up and collected. And Ibn 'Umar used to pay his *Zakāt* to the collector of Najdah Al-Harūrī[138] …"[139] And this is what was approved by Al-Juwaynī also. [140]

So these are the evidences for the permissibility of the people seeking judgment from a person, who is worthy of judgment (i.e. issuing verdicts), if they are satisfied (with him), as opposed to the judge (*Qādhī*) of the *Imām* within the *Islāmic* State (*Dār Al-Islām*), in which there is an *Imām* for the Muslims, who rules them and the *Islāmic Sharī'ah* is over them. And Abū Bakr Ibn Al-Munthir mentioned consensus (*Ijmā'*) upon the permissibility of this, contrary to what the author of the book "*Al-Bay'ah*", claimed of a consensus (*Ijmā'*) upon its falsehood.

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136 **Trans. Note:** *Bughāt* are those who unlawfully rebel against the rightful Muslim government.

137 "*Al-Mughnī Wash-Sharh Al-Kabīr*" (10/70)

138 **Trans. Note:** Najdah Al-Harūrī: He is Ibn 'Amr, the Hanafī, the Khārijī. Al-Harūrī is from the town Harūrā', in *Al-Kūfah*. Look to "*Tuhfat Al-Ahwathī Sharh Jāmi' At-Tirmithī*" (1,477). And in "*'Awn Al-Ma'būd*" (2,589), Al-Abādī mentioned that he was the leader of the *Khawārij*.

139 "*Al-Kāfī*" (4/152)

140 "*Al-Ghiyathī*" (Pg. 374)

Point Of Notice: The Difference Between the Arbitrator (*Hakam*) [141] and the Judge (*Qādhī*) is From Several Points:

1. The arbitrator (*Hakam*) does not require to be appointed into authority by the *Imām* of that era; as opposed to the judge (*Qādhī*), who is not authorized into responsibility, except from the *Imām*.

2. The arbitrator (*Hakam*) does not judge between two people, unless they are satisfied (with him), and they seek his judgment voluntarily; as opposed to the judge (*Qādhī*) of the *Imām*, who judges between the plaintiffs whether they are satisfied or not. And it is his right to compel them to be present at the council of judgment, even if they do not volunteer, as long as the subpoena has reached them.

3. The arbitrator (*Hakam*) does not have the full right to investigations into cases nor granting the continuance, because the full right to investigation and granting the continuance means that he is a person of authority; however, this is for the judge (*Qādhī*) who is appointed into authority by the *Imām*.

Yet, the arbitrator (*Hakam*) and the judge (*Qādhī*) are equal with respect to their obligation of possessing the (necessary) stipulations of judgment (*Qadhā'*). And their ruling (*Hukm*) is to be held upon the plaintiffs (equally), except that the judge (*Qādhī*) has the ability to enforce his ruling (*Hukm*) through the police, whereas the arbitrator (*Hakam*) might not have this enforcement when necessary. This is what concerns the first condition in this matter (i.e. the scenario where an arbitrator is selected by two plaintiffs to rule in their dispute, within a state governed by the *Islāmic Sharī'ah*, while there are judges, who have already been established by the Muslim *Imām*.)

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[141] **Trans Note:** The word "*Hakam*" (lit. arbitrator, mediator) is used in this section to refer to the one who is selected by two plaintiffs for judgment as opposed to his usage of "*Qādhī*" (lit. judge, adjudicator), which refers to a judge who was appointed by the *Imām*.

As for the **second condition**; that being when the Muslims do not have an *Imām* who rules them, nor a *Sharī'ah*-based court to seek judgment from – this is the condition of most of the Muslims today. So I do not (merely) say that it is *permitted* for them, rather I say that it is ***obligatory*** (*Wājib*) upon them to refer to whoever is worthy of *Sharī'ah*-based judgment from amongst them, to judge between them with the Legislation of Allāh. Then if they do not find anyone who is worthy of judgment, then they should choose the (next) most worthy and then the next most worthy. And it is *Harām* (unlawful, illegal, forbidden) for them to seek judgment from the man-made laws of disbelief (*kufr*).

And the evidence upon the correctness of this is all of which I mentioned in the first condition, especially the words of the *Shaykh* Ibn Dhuwayyān in his book "*Manār As-Sabīl*" and the words of Ibn Qudāmah in "*Al-Mughnī*". And on top of this:

- *Al-Qādhī* Abū Ya'lā said, "And if the people of a country are void of a judge (*Qādhī*), then they must agree upon the adherence to a (chosen) judge (*Qādhī*) over them. So we look; if the *Imām* is present, then this selection is void (*Bātil*), and if he is absent, then this is valid and his judgments (*Ahkām*) are held upon them. But if a new *Imām* arrives after his judgments, then his judgment is not continued, except with his (i.e. the *Imām's*) permission, and what has already passed from his ruling is not nullified. And Ahmad (may Allāh be merciful to him) has stated that when two people take him as their judge, then his ruling (*Hukm*) is to be held upon them." **[142]**

And the evidence of support comes from his statement that if the *Imām* is absent, then it is valid for the people to setup a judge (*Qādhī*) for themselves. As for his statement, 'if the *Imām* is present, then this slection is void (*Bātil*)' - this does not invalidate what we have arrived at in the first condition. Because appointing judges (*Qudhāt*) is from the rights of the *Imām*, and what we have

[142] "*Al-Ahkām As-Sultāniyyah*" (Pg. 73)

mentioned in the first condition, is taking judgment to an arbitrator (*Hakam*), it (is) not (about) appointing a judge (*Qādhī*). And I have mentioned the points of difference between an arbitrator (*Hakam*) and a judge (*Qādhī*) above.

- And *Imām Al-Haramayn* Al-Juwaynī discussed this matter somewhat elaborately, as he said, "And the time has come for me to propose a hypothetical (example) concerning an era, which is lacking of people in charge, who are strict - and it lacks someone who is worthy of leadership (*Imāmah*)…" – until his saying – "As for what the people are able to perform on their own; but the proper etiquette necessitates that they seek the council of the People of Authority and refer to the important (individuals) of the era. (Examples include) the establishment of the Friday prayers (*Al-Jumu'ah*) and leading the troops to *Jihād* and providing the equity in punishment [*Al-Qisās* (i.e. an-eye-for-an-eye etc.)] with respect to life and limb [i.e. wounds and injuries (from assaults etc)]. Then the people must take responsibility during times of the absence (of proper authority)…" – until his saying – "And if the people do not come across anyone, whom they are satisfied with, to take charge of their affairs - then it is impossible that they would be ordered to refrain from that which they are able to do of repelling the corruption (*fasād*), because if they refrain from that which is possible, then the corruption (*fasād*) grows to cover the countries and mankind…" – until his saying – "… and some of the scholars (*'Ulamā'*) have stated that if a (particular) era is lacking a governor (*Sultān*), then it is the responsibility upon the intelligent ones in each city, along with the residents of every village; to put forward the people of vision and intelligence, along with the people of intellect and strong-mindedness, who they will obey in their directives and orders and avoid that which they forbid and prohibit. Because, if they do not do so, they will hesitate in the performance of the duties and they will differ when the issues arise…" – until his saying – "Then every command, which the *Imām* issues in matters, which are left up to the *Imāms* (are to be settled by the *Imāms*). But if the era is lacking an *Imām* and lacking a *Sultān* of courage, ability and knowledge - then the matters are left up to the scholars (*'Ulamā'*) and then it becomes a duty upon the

people, from all their classes (of society), to refer to their scholars (*'Ulamā'*) and to comply in all of the matters of authority, according to (the best of) their opinions. Then if they do that, they have been guided to the Straight Path, and the scholars (*'Ulamā'*) of the countries have become the authorities over mankind. Then, if it is difficult for them to join together beneath one (scholar), then the people of every area and district should follow their scholar (*'Ālim*). And if the scholars (*'Ulamā'*) are numerous within one district, then the most knowledgeable one amongst them is the one to be followed. And suppose they are equal – although their being equal would be quite rare and does not ordinarily occur – but if they were to agree, then issuing an opinion from all of them, with all their contradicting demands and schools of thought (*Mathāhib*), would be impossible. So the (correct) way would be for them (i.e. the scholars) to agree on putting only one of them forward. But if they disagree and refuse and the matter develops into disagreements and disputes, then the thing to do, in my opinion, in order to end the disputes, would be a draw (i.e. drawing straws etc.). Then whoever's straw is drawn, then he is put forward." **[143]**

- Then Al-Juwaynī said that if an era is lacking of scholars (*'Ulamā'*) who are qualified to perform deductive reasoning (*Mujtahidīn*[144]), and no one remains except the narrators (i.e. those who have simply memorized the opinions) of the schools of thought (*Mathāhib*) of the *Imāms* - he said, "Verily, the jurist (*Faqīh*), which we have described; it is permitted for the seeker of a religious verdict (*Fatwā*), to take him in the place of a *Mujtahid Imām*, who has been elevated to the highest status during this interim process." **[145]**

- And what was mentioned by Al-Juwaynī, concerning the narrators of the schools of jurisprudence (*Mathāhib*) taking the place of issuing a religious verdict (*Fatwā*), in the era that is lacking of

[143] "*Ghiyāth Al-Umam*" (Pg. 385-391), published by 1401 H. with the *Hadīth* verification (*Tahqīq*) of Dr. 'Abdul-'Athīm Ad-Dīb

[144] **Trans. Note:** *Mujtahidīn*: plural of *Mujtahid*

[145] "*Al-Ghiyāthī*" (Pg. 427), 2nd edition, with the *Tahqīq* (i.e. verification) of Dr. 'Abdul-'Athīm Ad-Dīb, 1401 H.

Mujtahidīn, was approved by Ibn Al-Qayyim, as he stated, "If the man learns and reads a book or more, from the books of jurisprudence (*Fiqh*), and with that, he is still lacking of the knowledge of the Book and the *Sunnah* and the narrations of the predecessors (*As-Salaf*), and the (ability of) extracting (evidences) and the (ability of) selection of the most correct opinion (*Tarjīh*) - then is it permitted to follow his religious verdict (*Fatwā*)? The people have four sayings concerning this: (1) absolute permissibility, (2) absolute impermissibility, (3) permissibility in the absence of the *Mujtahid*, while not being permitted in his presence, and (4) permissibility if he has researched the sayings of those upon whose sayings he is basing the verdict (*Fatwā*) which he is issuing, while not being permitted if he has not researched (them).

And that which is correct is that this (matter) has a detailed explanation, which is: If it is possible for the questioner to reach a scholar (*'Ālim*) to guide him to the path, then it is not permitted for him to seek a *Fatwā* from the likes of this person. And it is not permitted for this person to set himself up for (issuing) the *Fatwā*, in the presence of this scholar (*'Ālim*). Yet, if there is no one besides him, in his county or his region – to the extent that the seeker of the *Fatwā* cannot find anyone else to ask, other than him – then there is no doubt that his referring to this person would be more befitting than for him to perform this action without knowledge, or to remain confused in his bewilderment, indecisive in his blindness and his ignorance (about what to do). Rather, this (i.e. asking the likes of this person) is all he is able to do from his piety, with which he has been ordered. **[146]** And similar to this would be if the *Sultān* could not find anyone to entrust the judgment to, other than a judge who lacks the necessary conditions of judgment. He must not leave the country without a judge and he must entrust this responsibility to whosoever is closest to deserving." **[147]**

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[146] **Trans. Note:** Referring to Allāh's statement,

فَاتَّقُوا اللَّهَ مَا اسْتَطَعْتُمْ

So fear Allāh as much as you can [*At-Taghābun*: 16]

[147] "*I'lām Al-Muwaqqi'īn*" (4/196-197)

So these are the statements of the predecessors (*As-Salaf*), concerning when the era is lacking of the Greater *Imām*, that it is obligatory (*Wājib*) upon the people of every country and region to seek judgment from the People of Knowledge from them, from amongst the *Mujtahidīn*. And if they are non-existent, then they must take the judgment to the most deserving and then to the next most deserving. And the address of Allāh concerning establishing of the Laws (*Ahkām*) is addressed to the nation (*Ummah*) as a whole. He, the Most High, said:

وَالسارِقُ وَالسارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا

And the male thief and the female thief, cut off their hands… [148]

And He, the Most High, said:

الزانِيَةُ وَالزانِي فَاجْلِدُوا

The woman and the man guilty of illegal sexual intercourse, flog (them)… [149]

And such. And the *Imām* is a deputy of the *Ummah* in the implementation of these, just as in the authentic *Hadīth*, "*Verily, the Imām is only a shield (i.e. shelter or protector).*" [150] And also, relating to this, "*The Greater Imām is a shepherd over the people, and he is responsible for his flock.*" [151] So if the *Imām* is missing, then the address returns back upon the entire *Ummah*. So then the people must put forward whosoever they can take judgment to, from those who are worthy of this. And Ahmad Ibn Hanbal said, "It is a must for the people to have a ruler (*Hākim*). Should it be that the rights of

[148] *Al-Mā'idah*, 38

[149] *An-Nūr*, 2

[150] **Trans. Note:** Narrated by Al-Bukhārī, Muslim, An-Nasā'ī, Abū Dāwūd and Ahmad, all on the authority of Abū Hurayrah (may Allāh be pleased with him) with similar phrasings. Refer to "*Sahīh Al-Jāmi'*" of Al-Albānī, (2,321).

[151] **Trans. Note:** Similar narrations narrated by Al-Bukhārī, Muslim (1,829), At-Tirmithī, Abū Dāwūd and Ahmad on the authority of Ibn 'Umar (may Allāh be pleased with him), that resemble what the *Shaykh* mentioned, without the word "*…the greater…*"

the people are lost?!" Abū Ya'lā mentioned this in "*Al-Ahkām As-Sultāniyyah*". [152] And this is because setting up the judges is from the communal obligations (*Fardh Kifāyah*) [153] in order to preserve justice. However, if this is not established by (at least) some, then everyone is sinful. He, the Most High, said:

يَا أيهَا الذِينَ آمَنُوا كُونُوا قَواِهِ َ بِالْقِسْطِ

O you who believe! Stand out firmly for justice… [154]

And He, the Most High, said:

لَقَدْ أَرْسَلْنَا رُسُلَنَا بِالْبَينَاتِ وَأَنزَلْنَا مَعَهُمْ الْكِتَابَ وَالْمِيزَانَ لِيَقُومَ الناسُ بِالْقِسْطِ

Indeed We have sent Our Messengers with clear proofs, and We revealed the Book with them, and the Balance (justice) that mankind may keep up justice. [155]

And *Shaykh Al-Islām* Ibn Taymiyyah (may Allāh be merciful to him) pointed out this meaning with the clearest of indications, (saying that) the nation (*Ummah*) as a whole has been addressed the Laws (*Ahkām*) and the *Islāmic* penalties (*Al-Hudūd*). And the *Sultān*, who has the authority, is required to establish them. Yet, if the *Sultān* is non-existent, and it is possible to establish them – provided that establishing them will not bring a greater evil in comparison to the great evil resulting from not establishing them - then this is what is obligatory (*Wājib*). As he (may Allāh be merciful to him) said, "Allāh addressed the Believers with the *Islāmic* penalties (*Al-Hudūd*) and the rights (*Al-Huqūq*), with an unrestricted address. Such as His, the Most High's, saying: **"And the male thief and the female thief, cut off their hands…"** [156] And He, the Most High,

[152] Pg. 24 & 71

[153] **Trans. Note:** "*Fardh Kifāyah*" (i.e. communal obligations) are those duties, which are obligatory upon the general masses of the Muslims to fulfill. If a portion of the Muslims fulfills them, then none are held sinful. However, if these duties are not fulfilled by some of the Muslims, then all of them are held sinful for their failure to perform them.

[154] *An-Nisā'*, 135

[155] *Al-Hadīd*, 25

[156] *Al-Mā'idah*, 38

said: **"The woman and the man guilty of illegal sexual intercourse, flog (them)…"** [157] And His statement: **"And those who accuse chaste women, and produce not four witnesses, flog them…"** [158] And like that, is His statement: **"…and do not accept their testimony ever…"** [159] However, it is known that whoever is addressed with the (performance of an) action; he must be able to perform it, and it is not obligatory (*Wājib*) on those who are incapable. And it is known that this is an obligation upon the community (*Fardh 'Alā Al-Kifāyah*) and it is like *Jihād*. Rather, it is a type of *Jihād*. So His statement: **"Fighting is ordained for you…"** [160] and His statement: **"And fight in the Path of Allāh…"** [161] and His statement: **"If you march not forth, He will punish you…"** [162] And the likes of these are obligations upon the community (*Fardh 'Alā Al-Kifāyah*) for those who are able. So 'the ability' (in regards to establishing the penalties) is the *Sutlān* (i.e. authority) - so for this reason, it is obligatory (*Wājib*) upon the person of *Sultān* (i.e. authority), and his deputies, to establish the *Islāmic* penalties (*Al-Hudūd*).

And the *Sunnah* is that the Muslims are to have one *Imām*, while the rest are his deputies. And if, for the sake of argument, the nation (*Ummah*) leaves this *Sunnah*, due to sinfulness of some of them, and the inability of the rest, or such - which results in it having numerous *Imāms*, then it is obligatory (*Wājib*) upon each *Imām* to establish the *Islāmic* penalties (*Al-Hudūd*) and to fulfill all the rights. And for this reason, the scholars (*'Ulamā'*) have stated that the rulings (*Ahkām*) of the people of unlawful rebellion (*Baghy*) are to be implemented in whatever the rulings (*Ahkām*) of the People of Justice are implemented in. And also, if they share in the leadership (*Imārah*) and evolve into parties (*Ahzāb*), then it would be obligatory (*Wājib*) upon every party (*Hizb*) to establish that (i.e. *Al-Hudūd*) upon the people who obey them. So this is when the *Amīrs* have

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[157] *An-Nūr*, 2
[158] **Trans. Note:** *An-Nūr*, 4
[159] **Trans. Note:** *An-Nūr*, 4
[160] **Trans. Note:** *Al-Baqarah*, 216
[161] **Trans. Note:** *Al-Baqarah*, 190 & 244
[162] **Trans. Note:** *At-Tawbah*, 39

become divided and are numerous. And likewise, (even) if they do not become divided, but their obedience to the chief *Amīr*, is not absolute obedience, then even if his ability to make that binding upon them disappears, their responsibility of establishing it (i.e. *Al-Hudūd*) does not disappear. Rather, it remains (obligatory) upon them (i.e. those people who are away from his authority) to establish it. And likewise, suppose some of the *Amīrs* are unable to establish the *Hudūd* and the rights, or they do not fulfill them; then it would still be compulsory (*Fardh*) upon whoever is able.

And the saying of he who says, "The *Hudūd* are not established except by the *Sultān* and his deputies, if they are able to (do so) - and do so with justice - just as the jurists say: 'The command is for the ruler (*Hākim*)," – verily, this is only for the just and the able one. So if he neglects the wealth of the orphans or (becomes) unable to maintain it, then it is not obligatory (*Wājib*) to surrender it (i.e. the *Hudūd*) to him, if it is possible to preserve it without him. And likewise is the *Amīr,* if he neglects the *Hudūd* or is unable to implement them, then it is not obligatory (*Wājib*) to entrust it (i.e. the *Hudūd*) to him when it is possible to establish them without him. And the basic rule (*Asl)* is that these obligations (*Wājibāt*) are to be established upon the best possible performance. So whenever it is possible to establish them with one leader, then two (leaders) are unnecessary. And whenever it is not established with a multiple, and without a *Sultān*, then they (i.e. the *Hudūd*) are to be established as long as their establishment does not create an evil (*fasād)* which would be greater than the loss of it (i.e. the *Hudūd*). (This is) because they (i.e. the *Hudūd*) are from the category (*Bāb*) of Commanding the Good and Forbidding the Evil. So if in establishing it (i.e. the *Hudūd*) there is an evil (*fasād)* which would be worse upon the People of Authority and the population, than the loss of it (i.e. the *Hudūd*); then that which is less worse should not be repelled (in exchange for that which is worse). And Allāh knows best." **[163]**

[163] "*Majmū' Al-Fatāwā*" (34/175-176)

So these are the *Sharī'ah*-based evidences and the sayings of the scholars (*'Ulamā'*) of the *Ummah*, which confirm the validity of people taking the judgment to other than the judge (*Qādhī*) of the *Imām*, from those who are worthy of judgment, in an era where the *Imām* is present. And Ibn Al-Munthir narrated consensus (*Ijmā'*) upon the validity of this. And here are their statements, which confirm the validity – rather, the obligation (*Wujūb*) – for the people to agree among themselves to establish the judgments (*Ahkām*), when this is possible for them, in an era where the *Imām* is absent, and that they should select a judge, who is worthy of the *Sharī'ah*-based judgment between them. (And this position is given in priority,) to the most deserving and then to the next most deserving. And with this, there is a full and sufficient refutation and negation of what was mentioned by the author of the book "*Al-Bay'ah Bayn As-Sunnah Wal-Bid'ah*".

And the obligation (*Wājib*), upon the author (i.e. 'Alī Al-Halabī) and the rest of those involved with the *Islāmic Da'wah*, is to call the Muslims to this, not preventing them from it. So for the Muslims to take the judgment to a scholar (*'Ālim*) from amongst them, is obligatory (*Wājib*) upon them, as long as they are able to do so. And this is better for them in this life and the Hereafter than to taking the judgment to the *Tawāghīt* and to their laws of (*kufr*), which most of the Muslims have taken shade under - consuming each other's wealth, money, and property through falsehood, and blood and private parts being made permissible (i.e. violated)…

And it is not permitted for anyone who is called to take the judgment to the (*Islāmic*) Legislation, to turn away from it. He, the Most High, said:

وَإِذَا قِيلَ لَهُمْ تَعَالَوْا إِلَى مَا أَنزَلَ اللَّهُ وَإِلَى الرَّسُولِ رَأَيْتَ الْمُنَافِقِينَ
يَصُدُّونَ عَنكَ صُدُودًا

And when it is said to them: "Come to what Allāh has sent down and to the Messenger," you see the hypocrites turn away from you with aversion. [164]

And He, the Most High, said:

وَإِذَا دُعُوا إِلَى اللَّهِ وَرَسُولِهِ لِيَحْكُمَ بَيْنَهُمْ إِذَا فَرِيقٌ مِنْهُمْ مُعْرِضُونَ وَإِنْ يَكُنْ لَهُمُ
الْحَقُّ يَأْتُوا إِلَيْهِ مُذْعِنِينَ أَفِي قُلُوبِهِمْ مَرَضٌ أَمِ ارْتَابُوا أَمْ يَخَافُونَ أَنْ يَحِيفَ اللَّهُ عَلَيْهِمْ
وَرَسُولُهُ بَلْ أُولَٰئِكَ هُمُ الظَّالِمُونَ إِنَّمَا كَانَ قَوْلَ الْمُؤْمِنِينَ إِذَا دُعُوا إِلَى اللَّهِ وَرَسُولِهِ
لِيَحْكُمَ بَيْنَهُمْ أَنْ يَقُولُوا سَمِعْنَا وَأَطَعْنَا وَأُولَٰئِكَ هُمُ الْمُفْلِحُونَ

And when they are called to Allāh (i.e. His Words, the *Qur'ān*) and His Messenger, to judge between them, lo! a party of them refuse (to come) and turn away. But if the right is with them, they come to him willingly with submission. Is there a disease in their hearts? Or do they doubt or fear lest Allāh and His Messenger should wrong them in judgment? Nay, it is they themselves who are the *Thālimūn* (polytheists, hypocrites and wrong-doers, etc.). The only saying of the faithful Believers, when they are called to Allāh (i.e. His Words, the *Qur'ān*) and His Messenger, to judge between them, is that they say: "*We hear and we obey.*" And such are the prosperous ones (who will live forever in Paradise). [165]

So the Muslims taking the judgment to the *Sharī'ah*, far away from the courts of disbelief (*kufr*), is obligatory (*Wājib*) upon them. And we call the people to that with force, whenever that is possible. And if they are unable (to do so), concerning the (*Islāmic*) penalties (*Al-Hudūd*), then let it be in the money (transactions) and so on. And all of this enters beneath the fear of Allah, which is within the slave's ability. And it enters beneath the rule of jurisprudence (*Fiqh*): "*the easy matter does not fall, due to the difficult matter*". And 'Izz Ad-Dīn Ibn 'Abdis-Salām phrased it like this: "Verily, whoever is held obligated for something of the acts of worship, and he is able to perform part of it, and unable to perform part of it, then he must

[164] *An-Nisā'*, 61
[165] *Nūr*, 48-51

perform what he is able to. And what he is unable to perform, falls off of him." [166] And this rule is taken from His, the Most High's, statement:

فَاتَّقُوا اللَّهَ مَا اسْتَطَعْتُمْ

So fear Allāh as much as you can… [167]

And from the statement of the Messenger of Allāh صلى ا عليه وسلم, *"And whatever I order you with; then perform from it as much as you are able."* [168] And from what enters beneath "the ability", is the distribution of the *Zakāt*, even if the rulers abolish it, and the payment of the blood-money and the compensation for the wounds and expiations and the forbiddance of interest (*ribā*), even if the courts of *kufr* do not rule with these. And from what is tied into this (subject), is being conscious of the value of loans and termed purchases. And this is because the value of paper money greatly fluctuates over time. So the obligation (*Wājib*) is to make one of the two currencies, which are recognized in the *Sharī'ah* – gold and silver – as the basis in these transactions. So for example, if a man loans you one thousand *Līrahs* [169] today - and presently a gram of gold costs one hundred *Līrahs* - then you have borrowed (the equivalent of) ten grams (of gold). So if the term of the loan is one year, and after one year a gram of gold costs two hundred *Līrahs*, and you return the one thousand *Līrahs* to him, then you have (only) repaid him for five grams (of gold) and you have wronged him with a horrible transgression. And the obligation (*Wājib*) upon you would be to repay him two thousand *Līrahs*. And opposite to this, is when the value of the *Līrah* has increased - then you should repay him less than the original thousand just as in the former

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166 "*Qawā'id Al-Ahkām*" (2/6 & 19)

167 *At-Taghābun*, 16

168 Agreed upon (i.e. Al-Bukhārī and Muslim)

Trans. Note: Also narrated by Ibn Mājah and Ahmad, and this specific phrasing is Ahmad's. Al- Bukhārī and Muslim narrated it with other very similar phrasings, all from Abū Hurayrah, may Allāh be pleased with him.

169 **Trans. Note:** The *Līrah* or Lira is the name of a currency used in some countries, including Turkey, Lebanon, Malta, and Italy before switching to the Euro.

calculation. And this is not from interest (*ribā*) whatsoever. Rather, it is returning to the currency which is considered in the (*Islāmic*) Legislation, because these paper notes have no consideration in (*Islāmic*) Legislation, except through their value in calculation to gold or silver. And this is what every Muslim does when giving the *Zakāt* of his wealth and the *Zakāt* of his inventory of trade. And it should not be understood, from my aforementioned statement, the permissibility of interest (*ribā*), upon this paper money, from the banks, with the argument that it (i.e. the interest) merely repays the loss of value, because this is interest (*ribā*), the pillars of which are complete, (and) of which the amount of profit has been previously determined, (and) it is *Harām*; (absolutely) *Harām*. And what has passed, from the consideration of the value, does not enter into the entrustments (i.e. what someone gives you to watch over) as these are returned just as they were. And the *Shaykh* Ahmad Az-Zarqā, has pointed to this issue in his book "*Al-Qawā'id Al-Fiqhiyyah*", beneath the rule: "There is to be no *Dharar* and no *Dhirār*." [170] and he attributed this opinion to *Al-Qādhī* Abū Yūsuf. [171] And this is what I used to – and continue to – advise my Muslim brothers. And it seems to me that Allāh, the Most High, will not bless the Muslims with an *Islāmic* government unless they seek judgment from the (*Islāmic*) Legislation, as much as possible within the current conditions. Then if they exert themselves in this, then hopefully Allāh, the Most High, will fulfill His promise. As He, the Most High, said:

إِن اللَهَ لا يُغَيرُ مَا بِقَوْمٍ حَتى يُغَيرُوا مَا بِأنفُسِهِمْ

Verily, Allāh will not change the condition of a people until they (themselves) change their condition. [172]

And in the Muslim's taking their judgments to the (*Islāmic*) Legislation, in this era, there is another benefit. And it is keeping this *Sharī'ah* alive, contrary to what the *Tawāghīt* desire from the

[170] **Trans. Note:** Refer to footnote #112 above.
[171] "*Sharh Al-Qawā'id*" (Pg. 121)
[172] *Ar-Ra'd*, 11

death of the *Sharī'ah* and its carriers. And all of this paves the way for the *Islāmic* governance.

Verily, these *Tāghūtī* laws are major disbelief (*kufr akbar*), which takes the one who placed them, the one who governs with them, and the one who seeks judgments from them due to satisfaction and willingness – outside the Religion (*Millah*) of *Islām*. And it is one of the worst objectionable things. And the weakest of *Īmān* – and that is the objection (*Inkār*) of the heart (of the evil) – necessitates for the Muslims to boycott these laws, their courts, and their judges and to disassociate (*Barā'ah*) from them, and to refrain from studying them in the Faculties of Rights, which teach the laws of *kufr*. And as for the objection (*Inkār*) upon the tongue; then from that are these very words (i.e. books of this nature etc.). And as for the objection (*Inkār*) of the hand against these laws of *kufr*, and against those who act upon them and protect them, then it is the main topic of this treatise. And that is the military training. And this is what called us to digress into the refutation upon the author of the book (i.e. 'Alī Al-Halabī) "*Al-Bay'ah*", due to the relationship of all the topics with one another. *Wal-Hamdu Lillāh Rabbil-'Ālamīn.*

قَسَم معسكر التدريب

مسألة: عـهـود الطاعات بـ ـيـن ا سـلمـيـن

The Oath of the Military Training Camp

Issue: Covenants of Obedience Amongst the Muslims

The reason that I included this subject within this treatise is because of the misunderstandings which surround it, as there are some who consider the covenants and the pledges of allegiance (*Al-Bay'ah*) among the Muslims – upon performing the acts of obedience – obligatory (*Wājib*), and there are those consider it an innovation (*Bid'ah*). So for this reason, I thought that this should be researched in some detail, to remove the confusion surrounding it.

And the proper saying, in my opinion – and Allāh is the Most Knowledgeable of that which is correct – is that the covenants among the Muslims, to perform the acts of obedience, are permissible. And included in this: is the oath (*Qasam*) of the military training camp (*Mu'askar*) and the covenants (*'Uhūd),* or the pledges of allegiance (*Al-Bay'ah*), of the groups (*Jamā'āt*) which are working for *Islām* and *Jihād*. So if the one who is overseeing the work, sees fit not to enter anyone into this effort, except after he takes from them covenants and promises (*Mawāthīq*), concerning specific matters – as long as they are not disobedience (against Allāh, i.e. sins) – then it is allowed for him to do so.

And based upon what I mentioned in the third chapter of this treatise, "*Al-Imārah*",**[173]** that these leaderships upon the groups working for *Islām* and *Jihād* are legislated and obligatory (*Wājib*); and included in this is the leadership of the military training camp, as this leadership obligates:

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[173] **Trans. Note:** Referring to "The Refutation of the Doubts Concerning Leadership", which preceded this section.

Firstly, upon the *Amīr*: To attend to the matters of the camp and to the affairs of its members, according to the (*Islāmic*) Legislation.

Secondly, upon the members: To listen to and obey (*As-Sam' Wat-Tā'ah*) the *Amīr* in matters, when they are eager and when they are reluctant, in hard times and easy times – as much as they are capable of – in other than disobedience (against Allāh, i.e. sins).

And these obligations upon each, the *Amīr* and the members, are obligatory (*Wājib*) according to the (*Islāmic*) Legislation to begin with; even if they have not undertaken the oath (*Qasam*) upon that, or entered into the covenant (*'Ahd)* upon that, as long as they have accepted to remain in this military camp and the leadership of its *Amīr*. Then if they undertake an oath (*Qasam*) and covenant (*'Ahd*) upon that, then this is a reinforcement of what was obligatory upon them by the (*Islāmic*) Legislation to begin with, which is the obedience towards the People of Authority. So the basis (*Asl)* of the obligation for what has preceded, is the Book and the *Sunnah*, and not the oath, which does not increase the obligation except by way of reinforcement.

- He, the Most High, said:

إِنَّ اللّهَ يَأْمُرُكُمْ أَن تُؤدُّواْ الأَمَانَاتِ إِلَى أَهْلِهَا وَإِذَا حَكَمْتُم بَيْنَ النَّاسِ أَن تَحْكُمُواْ بِالْعَدْلِ إِنَّ اللّهَ نِعِمَّا يَعِظُكُم بِهِ إِنَّ اللّهَ كَانَ سَمِيعًا بَصِيرًا

Verily! Allāh commands that you should render back the trusts to those to whom they are due; and that when you judge between the people, you judge with justice. Verily, how excellent is the teaching, which He (Allāh) gives you! Truly, Allāh is Ever All-Hearer, All-Seer. [174]

This is an order to the rulers (*Hukkām*) and the People of Authority, to render back (i.e. fulfill) the trusts – including guardianship and wealth – to its people, according to the (*Islāmic*) Legislation and

[174] **Trans. Note:** *An-Nisā'*, 58

govern the flock with Justice. Then He, the Most High, said, addressing the flock:

يَا أَيُّهَا الَّذِينَ آمَنُواْ أَطِيعُواْ اللّهَ وَأَطِيعُواْ الرَّسُولَ وَأُوْلِي الأَمْرِ مِنكُمْ فَإِن تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللّهِ وَالرَّسُولِ إِن كُنتُمْ تُؤْمِنُونَ بِاللّهِ وَالْيَوْمِ الآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلاً

O you who believe! Obey Allāh and obey the Messenger, and those of you (Muslims) who are in authority. Then if you differ in anything, then refer it to Allāh and His Messenger, if you believe in Allāh and the Last Day. That is better and more suitable for final determination. [175]

And look to its explanation in the beginning of "The Book of Judgments", in "*Fat'h Al-Bārī*". [176] And *Shaykh Al-Islām* Ibn Taymiyyah (may Allāh be merciful to him) authored his treatise "*As-Siyāsah Ash-Shar'iyyah Fī Islāh Ar-Rā'ī War-Ra'iyyah*" in the explanation of these two Verses, in order to clarify the obligations (*Wājibāt*) of the shepherd and the flock.

- And in the *Sunnah*, the Messenger of Allāh صلى ا عليه وسلم said, *"Whoever obeys me, then he has obeyed Allāh, and whoever disobeys me, then he has disobeyed Allāh. And whoever obeys the Amīr, then he has obeyed me and whoever disobeys the Amīr, then he has disobeyed me."* – Narrated by Muslim. And the phrasing of Al-Bukhārī has, "… my *Amīr*…" instead of "… the *Amīr*…" [177] And "… *the Amīr*…" being mentioned here, includes the Greater *Imām* (i.e. the *Khalīfah*) as well as the *Amīr* who is put in charge by the *Imām*. [178] And (this also applies to) the *Amīr*, whom the people have agreed to him being in charge, in the absence of the *Imām* - like what happened in the Battle of *Mut'ah* and likewise in the *Hadīth* of the leadership of traveling, as he صلى ا عليه وسلم entrusted the responsibility of

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[175] *An-Nisā'*, 58-59
[176] Vol. 13/111-112
[177] **Trans. Note:** Also narrated by An-Nasā'ī, Ibn Mājah and Ahmad, all from Abū Hurayrah, with similar phrasings.
[178] "*Fat'h Al-Bārī*" (13/122)

selecting an *Amīr*, to the people: *"If you are three in travel, then select one of you as an Amīr."* Yet, despite the fact that this *Amīr* is not put in charge by the *Imām*, the Legislator (i.e. Allāh) still called him an *Amīr*, as 'Umar Ibn Al-Khattāb (may Allāh be pleased with him) – the narrator of the *Hadīth* – said, "That is an *Amīr*, whom the Messenger of Allāh **صلى ا عليه وسلم** has put in charge." [179]

And the point of what has passed is that the *Amīr* of the military camp (*Mu'askar*) is a *Sharī'ah*-recognized *Amīr*, and he is from the People of the Authority, in his circle of expertise.

And in clarifying that the obedience to the "People of the Authority" is obligatory (*Wājib*) – even if individuals did not give them a covenant (*'Ahd)* upon that – *Shaykh Al-Islām* Ibn Taymiyyah (may Allāh be merciful to him) said:

"And that which Allāh and His Messenger have commanded, concerning the obedience to the 'People of Authority', and sincere conduct towards them - it is obligatory (*Wājib*) upon the person, **even if he does not give them a covenant (*'Ahd)* upon that, and even if he did not swear a reinforcing oath to them**. This is just like the five prayers are obligatory (*Wājib*) upon him, and the alms-giving (*Zakāt*), and the fasting (*Siyām*), and the pilgrimage (*Hajj*) to the (Sacred) House (i.e. the *Ka'bah*), and other than that, from what Allāh and His Messenger have commanded of the acts of obedience. Then if he swears upon that (i.e. to be obedient), then that is a reinforcement and a reaffirmation of what Allāh and His Messenger have ordered regarding obedience to the People of Authority and sincere conduct towards them. So the one who undertakes an oath upon these matters, it is not permissible (*Halāl*) for him to perform anything in opposition to what he took the oath upon, whether he swore by Allāh, or other such oaths which the Muslims swear by. This is because, that which Allāh obligated of the obedience to the 'People of Authority' and sincere conduct

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[179] Narrated by Al-Bazzār, with an authentic chain.
Trans. Note: Also authenticated by Ash-Shawkānī in "*Nayl Al-Awtār*" (9/157), and by Al-Albānī in "*Sahīh Ibn Khuzaymah*" (2,541).

towards them; this is obligatory (*Wājib*), even if he did not undertake an oath upon it. So what about if he did take an oath upon that?! And that which Allāh and His Messenger have forbade, regarding disobeying them and cheating them; this is unlawful (*Harām*), even if he did not make an oath (*Hilf*) regarding that." – until his statement – "And due to this (reason), whoever takes an oath upon that which Allāh and His Messenger have ordered regarding obedience to the 'People of Authority' and sincere conduct towards them, or the prayers (*Salāt*) or the alms-giving (*Zakāt*), or the fasting of *Ramadhān*, or rendering back (i.e. fulfilling) the trusts, and (performing) justice and the likes of that; it is not allowed for anyone to issue him a religious verdict (*Fatwā*) for him to contradict that which he undertook the oath upon, nor the breaking of that which he swore upon. And (likewise), it is not permissible for him to request a religious verdict (*Fatwā*) regarding (breaking) that. And whoever does issue a *Fatwā* to the likes of them, (allowing them) to contradict what they undertook the oath upon and to break that which they swore upon - then he is fabricating a lie upon Allāh and he is issuing a *Fatwā* in other than the Religion of *Islām*. Rather, even if he were to issue a *Fatwā* to an individual from the general public to do that which contradicts that which he undertook an oath upon, (such as) fulfilling the contract of sale, or marriage, or rental (transactions), or such, of those contracts which are obligatory (*Wājib*) for him to fulfill, which are obligatory upon him to fulfill even if he did not undertake an oath upon them; so if he does take an oath upon that, then it is more reinforced. So whoever gives a *Fatwā* to the likes of this one, concerning the permissibility of breaking these contracts, and breaking that which he undertook an oath upon, then he is fabricating a lie upon Allāh. And he is issuing a *Fatwā* in other than the Religion of *Islām*! So how about if that is concerning the contracts towards the 'People of Authority', which are from the greatest contracts which Allāh has ordered to be fulfilled?!" [180]

[180] "*Majmū' Al-Fatāwā*" (35/9-11)

This is concerning the clarification that obedience towards the 'People of Authority' is obligatory (*Wājib*), even if the individuals did not give an oath to them upon that.
So if the *Amīr* wants to take a covenant (*'Ahd)* and an oath (*Qasam*) upon his followers, then the research (*Bah'th*) in this topic contains several issues. And they are:

- Its legality in the *Sharī'ah*,
- Its benefit, Is it allowed to be time-limited,
- Is it allowed to call this covenant (*'Ahd)* a "Pledge of Allegiance" (*Bay'ah*)?
- What is the difference between it and the Pledge of Allegiance (*Bay'ah*) to the *Khalīfah*?
- And what is the ruling (*Hukm*) upon breaking this covenant (*'Ahd)*?

And I am going to follow these issues with the refutation of a doubt (*Shubhah*), which was mentioned by the author of the book "*Al-Bay'ah Bayn As-Sunnah Wal-Bid'ah*", *In Shā' Allāh Ta'āla*.

Firstly: The Legitimacy of This Covenant (*'Ahd*) In the *Sharī'ah*:

Definitions:

- ***Al-Qasam*** (the oath): And that is *Al-Yamīn* (the vow) – Ar-Rāghib said: "He took an oath (*Aqsam*), means he swore (*Halaf*) [solemn promise to do something or solemn declaration that something is true]. And its origin comes from *Al-Qasāmah*, and they are the oaths, which were taken by the guardians (*Awliyā'*) of the murder victim. Then it became a name for every swear (*Hilf)*. He, the Most High, said:

وَأَقْسَمُوا بِاللَّهِ جَهْدَ أَيْمَانِهِمْ

And they swear (*Qasam*) by Allāh their strongest oaths… [181]

- ***Al-'Ahd*** (the covenant): Ar-Rāghib said, "*Al-'Ahd* is the maintenance of and adherence to something, time after time. And the promise, whose adherence was compulsory, was called an *'Ahd.* He, the Most High, said:

وَأَوْفُوا بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْئُولاً

And fulfill (every) covenant (*'Ahd*). Verily, the covenant (*'Ahd*) will be questioned about. [182]

In other words, fulfill (it) by maintaining the vows."

- ***Al-Mīthāq*** (the promise): Ar-Rāghib said, "I tied it (*Awthaqtuhu*) (is the same as) I tightened it (*Shadadtuhu*)." And he said, "*Al-Mīthāq* is a contract (*'Aqd*), which is reinforced through a vow (*Yamīn*) and a covenant (*'Ahd*). He, the Most High, said:

وَإِذْ أَخَذَ اللَّهُ مِيثَاقَ النَّبِيِّينَ

And (remember) when Allāh took the promise (*Mīthāq*) of the Prophets … [183]

"And '*Al-Mawthiq'* is a noun, which is derived from it. He, the Most High, said:

حَتَّى تُؤْتُونِ مَوْثِقًا مِنَ اللَّهِ

… until you swear a solemn promise (*Mawthiqan*) to me by Allāh…

… till His statement:

مَوْثِقَهُمْ

[181] **Trans. Note:** As in Verses *An-Nahl*, 38 and *An-Nūr*, 53

[182] **Trans. Note:** As in Verse *Al-Isrā*, 34

[183] **Trans. Note:** As in Verse *Āl-'Imrān*, 81

…their solemn promise (*Mawthiqahum*)… [184] [This concludes the definitions from Ar-Rāghib] [185]

And from a *Sharī'ah*-based point of view, we say that the covenants, upon the performance of the duties of obedience (to Allāh), amongst the Muslims are permissible due to the following evidences:

1. He, the Most High, said:

وَأَوْفُواْ بِعَهْدِ اللّهِ إِذَا عَاهَدتمْ وَلاَ تَنقُضُواْ الأَيْمَانَ بَعْدَ تَوْكِيدِهَا وَقَدْ جَعَلْتُمُ اللّهَ عَلَيْكُمْ كَفِيلاً إِنَّ اللّهَ يَعْلَمُ مَا تَفْعَلُونَ . وَلاَ تَكُونُواْ كَالَّتِي نَقَضَتْ غَزْلَهَا مِن بَعْدِ قُوَّةٍ أَنكَاثًا تَتَّخِذُونَ أَيْمَانَكُمْ دَخَلاً بَيْنَكُمْ أَن تَكُونَ أُمَّةٌ هِيَ أَرْبَى مِنْ أُمَّةٍ إِنَّمَا يَبْلُوكُمُ اللّهُ بِهِ وَلَيُبَيِّنَنَّ لَكُمْ يَوْمَ الْقِيَامَةِ مَا كُنتُمْ فِيهِ تَخْتَلِفُونَ

And fulfill the Covenant (*'Ahd)* of Allāh when you have covenanted, and break not the oaths after you have confirmed them, and indeed you have appointed Allāh your surety. Verily! Allāh knows what you do. And be not like she who undoes the thread, which she has spun after it has become strong, by taking your oaths as a means of deception among yourselves, lest a nation may be more numerous than another nation. Allāh only tests you by this. And on the Day of Resurrection, He will certainly make clear to you that wherein you used to differ. [186]

And in the Days of *Jāhiliyyah* (pre-*Islāmic* days of ignorance), a man or a tribe would enter into alliance with another tribe. So if he found one stronger than it, he would break the covenant (*'Ahd*) of the first and make an alliance with the second one, and so on. So *Al-Mawla* (i.e. Allāh) ordered them to fulfill their covenants and warned them about breaking them, and gave them the similitude of the woman who used to spin yarn until when it became tightened,

[184] **Trans. Note:** As in Verse *Yūsuf*, 66

[185] Refer to "*Al-Mufradāt Fī Gharīb Al-Qur'ān*", by Ar-Rāghib Al-Asfahānī.

[186] *An-Nahl*, 91-92

she would untie it and it is a similitude used to illustrate stupidity and foolishness.

And *Shaykh Al-Islām* Ibn Taymiyyah, mentioned this Verse while discussing the covenants between the students and their teachers, who train them for fighting, and that it is not allowed for the student to break the covenant (*'Ahd)* of his teacher and to enter into a covenant (*'Ahd)* with another. As he said, "The one who moves from the first to the second is a rebellious one (*Baghī*) and a breaker of his covenant (*'Ahd)* and a non-fulfiller of his contract (*'Aqd)*. And this is also unlawful (*Harām*), and the sin of this one is greater than the sin of the one who did not commit the likes of his deed. Rather, the likes of this one; if he moves to other than his teacher and gives him a pledge (*Hilf)*, then he has committed a *Harām* (act) so this would be like the (eating) dead meat of a pig (i.e. doubly offensive). This is because he did not fulfill the covenant (*'Ahd)* of Allāh and His Messenger, nor the covenant (*'Ahd)* of the first (teacher); rather he is at the level of the one who plays, (the one) who does not have any covenant (*'Ahd)* nor religion (*Dīn*) nor commitment! And in the Days of *Jāhiliyyah* (pre-*Islāmic* days of ignorance) a man used to give a pledge (*Hilf)* to a tribe, then if he found one stronger than it, he would break the covenant (*'Ahd*) of the former and give the pledge (*Hilf)* to the second. And he (i.e. the one who breaks his covenant) resembles the condition of those ones, so Allāh, the Most High, revealed: "**And break not the oaths after you have confirmed them, and indeed you have appointed Allāh your surety. Verily! Allāh knows what you do. And be not like she who undoes the thread, which she has spun after it has become strong"** – the Verse…" – until he said – "… And whoever has a pledge (*Hilf)* with an individual to ally himself with those who are loyal to that person, and to be hostile against those who are hostile against him - then he is from the same category of the Tartars – those who are "*Mujāhidīn"* in the Path of the *Shaytān* – and the likes of this one are not from the *Mujāhidīn* in the Path of Allāh, the Most High, nor from the Army of the Muslims. And it is not allowed from the likes of them to be in the Military of the Muslims; rather they are from the military of the *Shaytān*. But it is good if he mentions to his student, 'Upon you is the covenant (*'Ahd)* of Allāh

and His *Mīthāq*, and that you ally yourself with those who ally themselves with Allāh and His Messenger, and that you take as enemies, those who take Allāh and His Messenger as enemies. And you must assist each other in (matters of) Righteousness (*Birr*) and Piety (*Taqwā*) and do not cooperate in sin and transgression. And if the Truth (*Haqq*) is with me, then support the Truth (*Haqq*). And if I am upon falsehood (*Bātil*), then do not support falsehood (*Bātil*).' So whoever complies with this, then he is from amongst the *Mujāhidīn* in the Path of Allāh, the Most High; those who desire for the Religion (*Dīn*) to be completely for Allāh, and for Allāh's Word to be supreme." **[187]**

2. Allāh, the Most High's, statement:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ

O you who believe! Fulfill the contracts. [188]

Al-Qurtubī said, within its *Tafsīr*, "Az-Zujāj said, 'The meaning is fulfill the contract (*'Aqd)* of Allāh, which is upon you, and your contracts among one another. And all of this returns to the opinion of generality, and that is the truth in this matter. He **صلى ا عليه وسلم** said, *"The Believers are with their stipulations [i.e. stick to their words, fulfill them]."* **[189]** And he said, *"Every stipulation, which is not in the Book of Allāh, is false - even if it is one hundred stipulations."* **[190]** So he clarified that the stipulation - or the contract (*'Aqd)* - which is obligatory to fulfill, is that which complies with the Book of Allāh; in other words, the Religion (*Dīn*) of Allāh. So, if that which

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[187] "*Majmū' Al-Fatāwā"* (28/19-21)

[188] *Al-Mā'idah*, 1

[189] **Trans. Note:** From 'Amr Ibn 'Awf Al-Muzanī (may Allāh be pleased with him). This *Hadīth* was declared "Extremely flimsy (*Wāhin Bi-Mirrah*)" by Ibn Al-Mulqin in "*Al-Badr Al-Munīr*" (6/687); and "*Dha'īf*" by Ibn Hajar in "*Talkhīs Al-Habīr*" and he declared another longer phrasing to be "Flimsy (*Wāh*)" (3/980).

[190] **Trans. Note:** This specific phrasing was narrated by Ibn Mājah, from 'Ā'ishah (may Allāh be pleased with her), and was declared "*Sahīh*" by Al-Albānī in "*Sahīh Ibn Mājah*" (2,059), and other similar phrasings were declared "Confirmed (*Thābit*)" by Ibn Hazm in "*Al-Muhallā*" (8/118) and Ash-Shawkānī in "*As-Sayl Al-Jarrār*" (2/269).

opposes it (i.e. the Religion) is found therein, then it is rejected. Just as he **صلى ا عليه وسلم** said, *'Whoever performs a deed, which is not in accordance with our affair (this Religion) - then it is rejected.'* [191] "

3. And many Verses were narrated with the commandment to fulfill the covenants and clarifying that this is the description of the Believers:

He, the Most High, said:

لَيْسَ الْبِر أَن تُوَلواْ وُجُوهَكُمْ قِبَلَ الْمَشْرِقِ وَالْمَغْرِبِ وَلَكِن الْبِر مَنْ آمَنَ بِاللّهِ

It is not *Al-Birr* (piety, righteousness etc.) that you turn your faces towards east or west (in prayers); but *Al-Birr* is the one who believes in Allāh…

– until His, the Most High's statement:

وَالْمُوفُونَ بِعَهْدِهِمْ إِذَا عَاهَدُواْ

…and who fulfill their covenant (*'Ahd)* when they make it… [192]

And He, the Most High, said:

وَأَوْفُواْ بِالْعَهْدِ إِن الْعَهْدَ كَانَ مَسْؤُولاً

And fulfill (every) covenant. Verily, the covenant (*'Ahd)* will be questioned about. [193]

And opposite (to this), it is narrated that breaking the covenants is from the descriptions of the hypocrites. And regarding it, there is a strong promise of punishment:

He, the Most High, said:

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[191] **Trans. Note:** Narrated by Muslim and Ahmad, from 'Ā'ishah, may Allāh be pleased with her.
[192] *Al-Baqarah*, 177
[193] *Al-Isrā'*, 34

وَمَا يُضِلُّ بِهِ إِلَّا الْفَاسِقِينَ الَّذِينَ يَنقُضُونَ عَهْدَ اللَّهِ مِن بَعْدِ مِيثَاقِهِ وَيَقْطَعُونَ مَا أَمَرَ اللَّهُ بِهِ أَن يُوصَلَ وَيُفْسِدُونَ فِي الْأَرْضِ أُولَٰئِكَ هُمُ الْخَاسِرُونَ

And He misleads thereby only those who are *Al-fāsiqīn*. Those who break Allāh's Covenant (*'Ahd)* after its ratification, and sever what Allāh has commanded to be joined, and do mischief in the land: it is they who are the losers. [194]

And He, the Most High, said:

وَالَّذِينَ يَنقُضُونَ عَهْدَ اللَّهِ مِن بَعْدِ مِيثَاقِهِ وَيَقْطَعُونَ مَا أَمَرَ اللَّهُ بِهِ أَن يُوصَلَ وَيُفْسِدُونَ فِي الْأَرْضِ أُولَٰئِكَ لَهُمُ اللَّعْنَةُ وَلَهُمْ سُوءُ الدَّارِ

And those who break the Covenant (*'Ahd)* of Allāh, after its ratification, and sever that which Allāh has commanded to be joined, and do mischief in the land, for them is the curse and for them is the unhappy (evil) home (i.e. Hell). [195]

And the Messenger of Allāh صلى ا عليه وسلم said, "*(There are) four things, which whoever possesses them within him, then he is a pure hypocrite (Munāfiq) and whoever has part of them within him, then there is a part of hypocrisy (Nifāq) in him, until he leaves it. (These are): when he is entrusted, he violates it (i.e. the trust). And when he speaks, he lies. And when he undertakes a covenant ('Ahd), he breaks it. And when he disputes, he acts in an offensive, insulting manner.*" – Narrated by Al-Bukhārī from 'Abdullāh Ibn 'Amr, may Allāh be pleased with them. [196]

And there is no doubt that the covenants, which were mentioned in the aforementioned evidences, are inclusive of the covenants among the people upon obedience, due to the following evidence:

[194] *Al-Baqarah*, 26-27
[195] *Ar-Ra'd*, 25
[196] **Trans. Note:** Also narrated by Muslim, At-Tirmithī, Abū Dāwūd and Ahmad with similar phrasings, all from 'Abdullāh Ibn 'Amr, may Allāh be pleased with them.

4. Allāh, the Most High's, statement about Ya'qūb, عليه السلام:

قَالَ لَنْ أُرْسِلَهُ مَعَكُمْ حَتَّى تُؤْتُونِ مَوْثِقًا مِنَ اللَّهِ لَتَأْتُنَّنِي بِهِ إِلَّا أَنْ يُحَاطَ بِكُمْ فَلَمَّا آتَوْهُ مَوْثِقَهُمْ قَالَ اللَّهُ عَلَى مَا نَقُولُ وَكِيلٌ

He (Ya'qūb) said: "I will not send him with you until you swear a solemn promise (*Mawthiq*) from Allāh, that you will bring him back to me unless you are yourselves surrounded (by enemies, etc.)," And when they had sworn their solemn oath to him, he said: "Allāh is the Witness over what we have said." [197]

So when Yūsuf, عليه السلام, requested from his brothers to bring him one of their brothers from their (same) father, their father would not entrust them with that and he rejected sending him with them, until they gave him a promise (*Mīthāq*). And this promise in the interactions among the people; Allāh labeled it: **"…promise (*Mawthiq*) from Allāh…"** and to clarify the weight of these promises, their eldest said – when Yūsuf, عليه السلام – detained his brother:

قَالَ كَبِيرُهُمْ أَلَمْ تَعْلَمُوا أَنَّ أَبَاكُمْ قَدْ أَخَذَ عَلَيْكُمْ مَوْثِقًا مِنَ اللَّهِ وَمِنْ قَبْلُ مَا فَرَّطْتُمْ فِي يُوسُفَ فَلَنْ أَبْرَحَ الْأَرْضَ حَتَّى يَأْذَنَ لِي أَبِي أَوْ يَحْكُمَ اللَّهُ لِي وَهُوَ خَيْرُ الْحَاكِمِينَ

The eldest among them said: "Know you not that your father did take a promise (*Mawthiqan*) from you from Allāh, and before this you did fail in your duty with Yūsuf? Therefore I will not leave this land until my father permits me, or Allāh decides my case (by releasing Yūsuf's brother) and He is the Best of the judges. [198] [199]

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197 *Yūsuf*, 66

198 *Yūsuf*, 80

199 **Trans. Note:** The point of the author here is to illustrate how seriously and severe this promise (*Mīthāq*) was upon Ya'qūb's eldest son, such that he was not willing to break it and preferred instead to remain alone in this foreign land until either his father allowed him to return or until he could bring back Benjamin (their brother). And how many of us nowadays are willing to hold this steadfastness to our pledges, covenants and promises?

5. Allāh, the Most High's statement, concerning the condition (*Shart*), which Al-Khidhr took from Mūsā, عليهما السلام, in order to accompany him, as well as the condition, which Mūsā, عليه السلام, placed upon himself:

As for the condition of Al-Khidhr, it is in His, the Most High's statement:

قَالَ فَإِن اتَبَعْتَنِي فَلَا تَسْأَلْنِي عَن شَيْءٍ حَتى أُحْدِثَ لَكَ مِنْهُ ذِكْرًا

He (Khidhr) said: "Then, if you follow me, ask me not about anything till I myself mention it to you." [200]

And as for the condition, which Mūsā placed upon himself, it is in His, the Most High's statement:

قَالَ إِن سَأَلْتُكَ عَن شَيْءٍ بَعْدَهَا فَلَا تُصَاحِبْنِي قَدْ بَلَغْتَ مِن لَدُني عُذْرًا

He (Mūsā) said: "If I ask you about anything after this, keep me not in your company, you have received an excuse from me." [201]

And Al-Bukhārī (may Allāh be merciful to him) entered a chapter about this issue within "The Book of Conditions" from his "*Sahīh*". And it is: "Chapter: The Conditions Among the People Through Statements." And he narrated within it, the *Hadīth* of Ibn 'Abbās, from Ubay Ibn Ka'b (may Allāh be pleased with them both) from the Prophet صلى ا عليه وسلم, concerning the story of Mūsā with Al-Khidhr, عليهما السلام. *"The first (violation) was (due to) forgetfulness, and the second (promise) became a condition (upon him) and the third (violation) was intentional."* [202]

Ibn Hajar said, "And he indicated the condition with his statement, '**If I ask you anything after this, keep me not in your company**,' as well as the (subsequent) compliance of Mūsā upon that (condition), and they did not write that (condition), nor did they bring anyone

[200] *Al-Kahf*, 70
[201] *Al-Kahf*, 76
[202] *Hadīth* #2,728

as a witness. And in it there is evidence for acting upon that which the condition indicates, because Al-Khidhr said to Mūsā, when he broke the condition, **'This is the parting between me and you.'** And Mūsā did not object to that, may peace be upon them both." [203]

So these aforementioned evidences clarify the permissibility of the covenants (*Uhūd)* and the promises (*Mawāthīq*) and the conditions (*Shurūt*) among the people, upon obedience. And I will add clarification to this with some of what is narrated from the Companions (*Sahābah*) and the Pious Predecessors (*Salaf As-Sālih*), concerning the covenants and promises:

6. From it, is what Al-Bukhārī narrated within "The Book of Merits": "Chapter: The *Islām* of Abū Tharr Al-Ghifārī." From Ibn 'Abbās, that Abū Tharr – when (news that a) Prophet **صلى ا عليه وسلم** was sent (by Allāh) reached him – he came to *Makkah*. So 'Alī saw him and new he was a stranger (i.e. a foreigner), so 'Alī said to him, 'Will you not tell me what brought you here?' Abū Tharr said, 'If you give me a covenant (*'Ahd)* and a promise (*Mīthāq*), that you will guide me (to what I seek), then I will.' So he did and Abū Tharr informed him. 'Alī replied, 'Verily, he (i.e. the Prophet) is true and he is the Messenger of Allāh **صلى ا عليه وسلم**." [204]

7. And also, there is what Al-Bukhārī narrated, as well, in "The Book of the Virtues of the Companions (*Sahābah*)": "Chapter: The Event of the Pledge of Allegiance (*Al-Bay'ah*) and the Agreement Upon 'Uthmān Ibn 'Affān." And in that chapter, was (the incident of) 'Umar (may Allāh be pleased with him) leaving the *Khilāfah* after him, to the six (selected) members of the consultation (*Ash-Shūrā*). So three declined (to be the *Khalīfah*) until 'Abdur-Rahmān Ibn 'Awf, 'Uthmān and 'Alī remained. 'Amr Ibn Maymūn, the narrator of the *Hadīth*, said, 'So 'Abdur-Rahmān said, "Now which of you two is willing to give up his right of candidacy so that we may give it to him, and Allāh and *Islām* will be upon him (as

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[203] "*Fat'h Al-Bārī"* (5/326)

[204] Refer to *Hadīth* #3,861. **Trans. Note:** Also narrated by Muslim with a similar phrasing.

witnesses), that he will look to who is better in his self.' So both the two *Shaykhs* (i.e. 'Uthmān and 'Alī) remained silent. So 'Abdur-Rahmān said, 'Do you both leave this matter to me, and Allāh is upon me (as a witness), that I will not choose except the better one from you.' They both said, 'Yes.' So he ('Abdur-Rahmān) took the hand of one of them (i.e. 'Alī) and said, 'You have the relation of the Messenger of Allāh **صلى ا عليه وسلم** and one of the earliest Muslims as you know well. So Allāh is upon you (as a witness) to promise that if I select you as a ruler you will do justice, and if I select 'Uthmān as a ruler you will listen and obey.' Then he took the other (i.e. 'Uthmān) aside and said the same to him. Then when he ('Abdur-Rahmān) secured (their agreement to) this covenant (*'Ahd)*, he said, 'O 'Uthmān, raise your hand.' So he (i.e. 'Abdur-Rahmān) gave him (i.e. 'Uthmān) the Pledge of Allegiance, and then 'Alī gave him the Pledge of Allegiance and then all of the people of the house entered and gave him the Pledge of Allegiance (*Al-Bay'ah*)." [205]

And the testimony from what has passed, is the approval of the Companions (*Sahābah*) and their acting upon the covenants and promises which were amongst them, as in the event of Abū Tharr, which contains a covenant (*'Ahd)* and promise (*Mīthāq*) between 'Alī and him. And also from the event of the Pledge of Allegiance (*Al-Bay'ah*) of 'Uthmān, there is a covenant (*'Ahd)* and promise (*Mīthāq*) that 'Abdur-Rahmān Ibn 'Awf took from 'Uthmān and 'Alī, may Allāh be pleased with them all.

And a group of the Companions (*Sahābah*) used the term "*Bay'ah*" for these covenants and promises. So from that:

8. That which was done by 'Ikrimah Ibn Abī Jahl on the Day of *Yarmūk*; Ibn Kathīr said, "And Sayf Ibn 'Umar mentioned, from Abī 'Uthmān Al-Ghassānī, from his father, who said, ' 'Ikrimah Ibn Abī Jahl said, on the Day of *Yarmūk*, 'I fought against the Messenger of Allāh **صلى ا عليه وسلم** (before entering *Islām*) on (many) occasions, and I would flee from you today?!' Then he called out, 'Who will give

[205] *Hadīth* #2,700

the Pledge of Allegiance (*Al-Bay'ah*) for Death?!' So his uncle, Al-Hārith Ibn Hishām and Dhirār Ibn Al-Azwar (gave the *Bay'ah*) along with four hundred of the Muslims and their knights (*Fursān*). So they fought in the front ranks of Khālid (Ibn Walīd) until they were all wounded, while some of them were killed, including Dhirār Ibn Al-Azwar, may Allāh be pleased with them. And Al-Wāqidī, and others, mentioned that when they fell down from injuries, they asked to drink water – and when it was brought to one of them, he would see another (injured man), and he would say, "Give him the water," – and when it was offered to him, he would see another (injured man), and he would say, "Give him the water,"; So each one of them refused to drink the water to give it to the other brother, until all of them died, and none had drunk the water. May Allāh be well pleased with them all." **[206]**

And Ibn Kathīr said, "Sayf Ibn 'Umar said, with his chain of narration (*Isnād)* from his teachers, 'They said that in that assembly – the army of the Muslims at *Yarmūk* – were one thousand men from the Companions (*Sahābah*), and from them, were one hundred from the People of *Badr*." **[207]**

So this was a Pledge of Allegiance (*Bay'ah*) between a man, who was not the *Amīr* of the army, and a group of soldiers, upon an act of obedience; and he was 'Ikrimah, the great companion (*Sahābī*). And from those who gave *Bay'ah* to him (likewise) were great companions (*Sahābah*). And this took place in the presence of Khālid; the *Amīr* of these soldiers. And just as Ibn Kathīr narrated that one thousand of the Companions (*Sahābah*) were present during this event, there was no mention of any objection from any of them in response to this action of 'Ikrimah. So the taking place of this kind of *Bay'ah*, in the presence of a group such as this one (i.e. the Companions), is evidence for their approval of it.

9. And at *Siffīn*, during the battle between 'Alī Ibn Abī Tālib and Mu'āwiyah Ibn Abī Sufyān, may Allāh be pleased with them both, in the front lines of 'Alī's army – the people of *'Irāq* – was Qays Ibn

[206] "*Al-Bidāyah Wan-Nihāyah*" (7/11-12)
[207] "*Al-Bidāyah Wan-Nihāyah*" (7/9)

Sa'd Ibn 'Ubādah (may Allāh be pleased with them both). And At-Tabarī narrated with an authentic chain from Yūnus Ibn Zayd from Az-Zuhrī, who said, "'Alī placed Qays Ibn Sa'd Ibn 'Ubādah at the head of the people of *'Irāq*. And they were forty-thousand (in number), and they gave him *Bay'ah* for Death." [208]

And what was said regarding the *Bay'ah* of 'Ikrimah, is also to be said about the *Bay'ah* of Qays (may Allāh be pleased with them both). And neither of them were the general *Amīr* of the soldiers, nor the *Khalīfah* of the Muslims, rather (he was merely) an *Amīr* of a division (*Tā'ifah*) of the army.

My intention from all that has preceded, is to clarify that the covenants (*'Uhūd)* and promises (*Mawāthīq*) – and these can be called "*Bay'ah*" – amongst the Muslims, are allowed upon the performance of obedience. And I mentioned what took place between the Prophet of Allāh, Ya'qūb عليه السلام, and his sons, and what took place between Mūsā and Al-Khidhr. And I mentioned what covenants occurred between the Companions (*Sahābah*), during the life of the Prophet صلى ا عليه وسلم, and what occurred among them after his death, without any objection from any of them, which makes us include this (i.e. it's permissibility) beneath the list of the consensus (*Ijmā')* of the Companions (*Sahābah*), such as the promise (*Mīthāq*) which 'Abdur-Rahmān Ibn 'Awf took from 'Uthmān and 'Alī as well as the *Bay'ah* of 'Ikrimah and Qays Ibn Sa'd, may Allāh be pleased with them. And I also narrated what *Shaykh Al-Islām* Ibn Taymiyyah mentioned, regarding the legality of the covenants between the teachers and their students and the obligation of fulfilling them, as long as they are upon the performance of acts of obedience (*Tā'āt*). And he (may Allāh be merciful to him) (even) mentioned a phrasing of this covenant (*'Ahd)* by way of example.

And all of this is for the clarification of the legality of these covenants.

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[208] "*Fat'h Al-Bārī*" (13/63)

Point of Notice: Someone might say, "Your aforementioned words, concerning the legality of these covenants among the Muslims, upon the performance of the acts of obedience, is contradicted by the *Hadīth* of the Prophet صلى ا عليه وسلم, *"There is no pledge (Hilf) in Islām."*

The answer: There is no contradiction between the two, *In Shā' Allāh Ta'āla*. Rather, the *Hadīth*, *"There is no pledge (Hilf) in Islām,"* is in-and-of-itself, a strong argument in support of what I mentioned regarding the legality of the covenants among the Muslims upon the performance of the acts of obedience.

Ar-Rāghib said, "*Al-Hilf* is the covenant between the people; and the formation of a pledge (*Al-Muhālafah*) means the formation of a covenant (*Al-Mu'āhadah*, i.e. agreement, pact) and it is made in order for it to be adhered to because of the pact." And he said, "And *Al-Hilf* (the pledge); its root is based in *Al-Yamīn* (the vow) that each person would take from the other for *Al-'Ahd* (the covenant). And then (it later) was used to mean any vow (*Yamīn*)." [209]

As for the *Hadīths* in which "*Al-Hilf*" is narrated; they are the *Hadīth* of Jubayr, in the negation of the pledge (*Hilf*) and the *Hadīth* of Anas in the affirmation of it:

1. From Jubayr Ibn Mut'im that the Messenger of Allāh صلى ا عليه وسلم said, *"There is no pledge (Hilf) in Islām; and any pledge (Hilf) which existed in the Days of Jāhiliyyah (pre-Islāmic days of Ignorance) - Islām did not increase it at all except in rigorousness."* [210]
2. From 'Āsim Al-Ahwal, who said, "I said to Anas, 'Has it reached you that the Prophet صلى ا عليه وسلم said, *'There is no pledge (Hilf) in Al-Islām?'* So Anas Ibn Mālik said, 'The Prophet صلى ا عليه

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[209] Refer to "*Al-Mufradāt Fī Gharīb Al-Qur'ān*", by Ar-Rāghib Al-Asfahānī: the topic "*Hilf*".

[210] Narrated by Muslim in "The Book of Virtues: Chapter of the Forming of Brotherhood by the Prophet صلى ا عليه وسلم Among the Companions," may Allāh be pleased with them.

وسلم made a pledge (*Hilf)* between *Quraysh* and the *Ansār* in my home [*Dār* (i.e. city of *Madīnah*)]." – Agreed upon. And Muslim narrated it via three paths: the path of the *Shaykh* of Al-Bukhārī, Muhammad Ibn As-Sabbāh, and from the path of Abū Bakr Ibn Abī Shaybah, and from the path of Muhammad Ibn 'Abdillāh Ibn Numayr. And Muslim narrated it within the aforementioned chapter, and Al-Bukhārī narrated it within the "Chapter: The Development of Brotherhood and *Al-Hilf*", within "The Book of Etiquette". And it has come in the narration of Abū Dāwūd from the narration of Sufyān Ibn 'Uyaynah from 'Āsim, who said, "I heard Anas Ibn Mālik saying, 'There was a pledge (*Hilf*) made…" and then he mentioned it with the word "… *Muhājirīn*…" instead of "… *Quraysh*…" So it was said to him, "Did he not say, *'There is no pledge (Hilf) in Al-Islām'*? He said, 'He made a pledge (*Hilf*)…" and then he mentioned it similarly and did so two or three times more." [211]

And since the outward appearance of the *Ahādīth* seems contradictory, the reconciliation between them (is as follows):

i) Ibn Al-Athīr said, "Topic: '*Al-Hilf*': Regarding it there is – 'He **صلى ا عليه وسلم** made a *Hilf* between (the tribe of) *Quraysh* and the Helpers (*Ansār*),' and in another *Hadīth*, Anas (may Allāh be pleased with him) said, 'He **صلى ا عليه وسلم** made a *Hilf* between the Emigrants (*Muhājirīn*) and the Helpers (*Ansār*) in our home [*Dār* (i.e. city of Madīnah)] twice.' In other words, he made brotherhood between them and formed a covenant (*'Ahd)*.

And in another *Hadīth*, *'There is no Hilf in Islām.'* The origin of '*Al-Hilf*' is to form a contract (*'Aqd)* and a covenant (*'Ahd)* upon cooperation, assistance, and agreement. So whatever of that existed during the Days of *Jāhiliyyah* (pre-*Islāmic* days of Ignorance), upon chaos and fighting among the tribes and the raids - then those are the ones about which the forbiddance was narrated in *Islām*, in his statement, *'There is no Hilf in Islām'*; And whatever from it existed in

[211] "*Fat'h Al-Bārī*" (10/501-502)

the Days of *Jāhiliyyah* (pre-*Islāmic* days of Ignorance) upon supporting the oppressed and maintaining the ties of kinship, such as the Pledge of the Good-doers (*Hilf Al-Mutayyibīn*) [212] and whatever resembles it, then that is what he صلى ا عليه وسلم pointed to with his saying: *'And any Hilf, which was in Jāhiliyyah, then Islām did not increase it except in rigorousness,'* intending the formation of contracts (*'Uqūd)* upon goodness and the support of Truth. And in this way, the two *Hadīths* are reconciled. And this is the *Hilf*, which *Islām* necessitates. But the ones which are to be abandoned, are those that contradict the ruling (*Hukm*) of *Islām*. And it has also been claimed that the formation of a pledge (*Al-Muhālafah*) only existed before the *Fat'h* [Conquest of *Makkah*] and that his saying, *'There is no Hilf in Islām,'* was said at the time of the Conquest, so it was an abrogator [*Nāsikh*] (of its previous permissibility)." [213]

I say: Here, Ibn Al-Athīr mentioned how to reconcile these two *Hadīths*. He said, "And in this way, the two *Hadīths* are reconciled." Then he mentioned the possibility of abrogation with a phrase which indicates weakness, as he said, "And it has also been claimed that the formation of a pledge (*Al-Muhālafah*) only existed before the *Fat'h* [Conquest of *Makkah*]…" – until his saying– "… so it was an abrogator." And it is correct for this abrogation to be mentioned with a phrase of weakness, due to the following:

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212 **Trans. Note:** "*Hilf Al-Mutayyibīn*": This was a covenant which took place in *Jāhiliyyah*, when the Prophet صلى ا عليه وسلم was a child. From 'Abdur-Rahmān Ibn 'Awf (may Allāh be pleased with him), who said: The Messenger of Allāh, صلى ا عليه وسلم said: *"When I was a boy, I witnessed the Hilf Al-Mutayyibīn with my uncles, so I do not wish that I would have Humr An-Ni'am, lest I would break it."* Narrated by *Imām* Ahmad. Ibn Hajar said within his *Sharh* of he *Hadīth* of Anas: "The *Hilf Al-Mutayyibīn* was a while before the sending (of the Prophet صلى ا عليه وسلم), Ibn Is'hāq and others mentioned it. And a group from Quraysh came together, then they formed a covenant (*'Aqd*) upon supporting the oppressed and being just between the people and the likes of that from the characteristics of goodness. And that continued until after the sending (of the Prophet صلى ا عليه وسلم)." *Imām* Ahmad Shākir declared two phrasings of this *Hadīth* as "*Sahīh*" in "*Musnad Ahmad*", 3/121, 136). *Shaykh* Al-Albānī also declared them "*Sahīh*" in "*Sahīh Al-Jāmi'*" (3,717) "*Sahīh Al-Adab Al-Mufrad*" (441).

213 Refer to "*An-Nihāyah Fī Gharīb Al-Hadīth*" (1/424-425), by Ibn Al-Athīr.

- Because the abrogation (*Naskh*) is not arrived at through a possibility, and this is because the abrogation implies the abolishment of one of the two texts, which are in contradiction with one another, which prevents acting upon it (i.e. the earlier text). And the abolishment (*Ta'tīl)* of an evidence of the *Sharī'ah* cannot be declared merely due to a possibility, especially without being certain of the dates (in which each of the texts was narrated).

- And also because the abrogation is not arrived at through deductive reasoning (*Ijtihād)*, except when it is impossible to reconcile the two contradictory texts. And in this case (of these two *Hadīths* on the *Hilf*), reconciliation is possible and was pointed out, as Ibn Al-Athīr stated. And the statements of An-Nawawī and Ibn Hajar will be presented soon, *In Shā' Allāh*.

- As for the objection to the claim of abrogation, it is sufficient for you to see the objection of Anas towards 'Āsim Al-Ahwal, concerning his understanding of the forbiddance of the *Hilf*. And this is a clear text from the Companion (*Sahābī*), after the death of the Messenger **صلى ا عليه وسلم** and the end of the (revealing of the) Divine Legislation, in which he affirms the *Hilf* and the formation of a pledge (*Muhālafah*). And Anas reaffirmed his statement (by mentioning) that this formation of a pledge (*Muhālafah*) took place, two or three times, as in the narration of Abū Dāwūd.

  It is therefore understood from this, that the pledge (*Hilf*), which is forbidden is one thing, and the pledge (*Hilf*) which is affirmed is another thing. This is because Anas did not say to 'Āsim that the Prophet **صلى ا عليه وسلم** did not utter this *Hadīth*, rather he only mentioned to him the type of this pledge which the Prophet **صلى ا عليه وسلم** formed between his Companions (*Sahābah*). So regarding the formation of a pledge (*Muhālafah*); from it is that which forbidden, and from it is that which is permitted. And the description of each of them is like what Ibn Al-Athīr mentioned beforehand and like what will be presented in the words of An-Nawawī and Ibn Hajar,

In Shā' Allāh. And the *Hadīth* of Ibn 'Abbās will be presented in the *Tafsīr* of His, the Most High's, saying:

وَالَّذِينَ عَقَدَتْ أَيْمَانُكُمْ

To those also with whom you have made a pledge… [214]

And you will see that the possibility of an abrogation was not even mentioned by An-Nawawī, nor by Ibn Hajar.

ii) Ibn Hajar said, "The response of Anas included the objection to the beginning of the *Hadīth* because in it, there is a negation of the *Hilf*. And there is affirmation of it in what he said there. And reconciliation is possible (because) that which was negated was the pledges they used to make during the Days of *Jāhiliyyah* (pre-*Islāmic* days of Ignorance) upon supporting the ally (*Halīf)*, even if he is an oppressor (*Thālim*), and taking vengeance from the tribe in the event that one of them is murdered, as well as from inheritance and things like that. Yet the affirmed form (of pledge) includes all other types besides that, from supporting the oppressed and establishing the commands of the Religion (*Dīn*), and the likes of that of the beloved things in the *Sharī'ah*, such as companionship, mutual affection, and the preservation of the covenant (*'Ahd)*. And the *Hadīth* of Ibn 'Abbās has passed concerning the abrogation of the inheritance between the contracted people (*Muta'āqidīn*). And Ad-Dāwūdī mentioned that they used to always leave one-sixth (of inheritance) to the carrier of the pledge (*Halīf)*, then it became abrogated…" – until he said – "… An-Nawawī said, 'What was negated was the *Hilf* of inheritance and that which the (*Islāmic*) Legislation prevents; as for the forming of a pledge (*Muhālafah*) upon the obedience of Allāh and supporting the oppressed, and brotherhood for (the sake of) Allāh - then this is a matter that is encouraged." **[215]**

iii) And An-Nawawī said, "*Al-Qādhī* said, 'At-Tabarī said, 'It is not permissible to make the *Hilf* today, nor the inheriting based upon it

[214] *An-Nisā'*, 33
[215] "*Fat'h Al-Bārī*" (10/502)

and the formation of brotherhood (upon it), because that which was mentioned in the *Hadīth*; all of that is abrogated due to His, the Most High's, statement: **"But kindred by blood are nearer to one another (regarding inheritance in the decree ordained by Allāh)…"** [*Al-Anfāl*, 75]. And Al-Hasan said, 'The inheritance used to be by the pledge (*Al-Hilf*) but then it became abrogated by the 'Verse of Inheritance' (i.e. the aforementioned Verse).' I say: As for inheritance (by the pledge), it is desirable to oppose it according to the all of the scholars. But as for formation of brotherhood upon *Islām*, and the formation of a pledge (*Muhālafah*) upon obedience of Allāh, the Most High, and to support and assist each other in righteousness (*Birr*) and piety (*Taqwā*) and establishing the Truth; then this remains and is not abrogated. And this is the meaning of his statement in these *Hadīths*: *'And any pledge (Hilf), which was in Jāhiliyyah, then Islām did not increase it except in rigorousness.'* And as for his statement, *'There is no Hilf in Islām,'* then what is meant by it is the pledge of inheritance and the pledge upon that which the (*Islāmic*) Legislation prohibited. And Allāh knows best." [216]

I say: So these are the sayings of Ibn Hajar and An-Nawawī concerning the reconciliation between the two *Hadīths*, which clarifies that the negated pledge (*Hilf*), is the pledge (*Hilf*) of inheritance and that which the (*Islāmic*) Legislation has forbidden; And it is the *Hadīth* of Jubayr Ibn Mut'im. And (they also clarified) that the affirmed pledge (*Hilf*) is that which is in the *Hadīth* of Anas – which is the formation of a pledge (*Muhālafah*) upon the obedience of Allāh, the Most High, and assisting each other for the Religion (*Dīn*), and working together in righteousness (*Birr*) and piety (*Taqwā*), and establishing the Truth. And these words support what I said beforehand regarding the legitimacy of having a covenant between the Muslims, upon the performance of the acts of obedience.

iv) What was narrated in the *Tafsīr* of His, the Most High's, statement:

وَالَّذِينَ عَقَدَتْ أَيْمَانُكُمْ فَآتُوهُمْ نَصِيبَهُمْ

[216] "*Sahīh Muslim Bi'Sharh An-Nawawī*" (16/81-82)

To those also with whom you have made a pledge (brotherhood), give them their due portion (by *Wasiyyah*, wills, etc.)... [217]

It has come in the words of An-Nawawī that the negated pledge (*Hilf*) (which is narrated in the *Hadīth* of), *"There is no Hilf in Islām,"* - this (prohibition) includes the *Hilf* of inheritance. And in the words of Ibn Hajar, he said, "And the *Hadīth* of Ibn 'Abbās has preceded concerning the abrogation of the inheritance between the contracted people (*Muta'āqidīn*)."

And in this issue – of the abrogation of inheritance between those who have formed a pledge (*Hilf*) [with each other] – has been narrated in the following Verses:

❖ The Verse from *An-Nisā'*: His, the Most High's, statement:

وَلِكُلٍّ جَعَلْنَا مَوَالِيَ مِمَّا تَرَكَ الْوَالِدَانِ وَالأَقْرَبُونَ وَالَّذِينَ عَقَدَتْ أَيْمَانُكُمْ فَآتُوهُمْ نَصِيبَهُمْ إِنَّ اللّهَ كَانَ عَلَى كُلِّ شَيْءٍ شَهِيدًا

And to everyone, We have appointed heirs of that (property) left by parents and relatives. To those also with whom you have made a pledge, give them their due portion (by *Wasiyyah*, wills, etc.). Truly, Allāh is Ever a Witness over all things. [218]

❖ The Verse from *Al-Anfāl*: His, the Most High's, statement:

وَأُوْلُواْ الأَرْحَامِ بَعْضُهُمْ أَوْلَى بِبَعْضٍ فِي كِتَابِ اللّهِ

And blood relations among each other have closer personal ties (regarding inheritance), in the Decree of Allāh [219]

❖ The Verse from *Al-Ahzāb*: His, the Most High's, statement:

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[217] *An-Nisā'*, 33
[218] *An-Nisā'*, 33
[219] *Al-Anfāl*, 75

وَأُوْلُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَى بِبَعْضٍ فِي كِتَابِ اللهِ مِنَ الْمُؤْمِنِينَ وَالْمُهَاجِرِينَ إِلَّا أَن تَفْعَلُوا إِلَى أَوْلِيَائِكُم مَّعْرُوفًا

And blood relations among each other have closer personal ties (regarding inheritance), in the Decree of Allāh, than (the brotherhood of) the Believers and the *Muhajirīn* (emigrants from Makkah), except that you do kindness to your allies. [220]

I say: The *Tafsīr* of these Verses should be reviewed from the famous *Tafsīrs* such as At-Tabarī, Al-Qurtubī and Ibn Kathīr. And I will summarize herein for you, that which relates to our subject; that being the abrogation of inheritance from the pledge (*Hilf*). So I say:

During the Days of *Jāhiliyyah* (pre-*Islāmic* period of Ignorance), two men would form a pledge (*Hilf*) to support each other and to inherit from one another. And in the beginning of *Islām,* and even until after the Emigration (*Hijrah*), the Emigrant (*Muhājir*) would inherit from the Helper (*Ansārī*), due to the brotherhood that the Prophet صلى ا عليه وسلم formed between them. So the one to whom the pledge was given would receive all of the inheritance after the death of the one to whom he pledged, instead of the blood relatives (*Raham*) of the deceased. So the abrogation of this came in two stages.

The first: with His, the Most High's, statement:

وَلِكُلٍّ جَعَلْنَا مَوَالِيَ

And to everyone, We have appointed heirs…

- until His statement:

وَالَّذِينَ عَقَدَتْ أَيْمَانُكُمْ فَآتُوهُمْ نَصِيبَهُمْ

… those also with whom you have made a pledge, give them their due portion.

[220] *Al-Ahzāb*, 6

So this Verse made the inheritance to be shared between the blood relatives (*Raham*) of the deceased –

وَلِكُلٍّ جَعَلْنَا مَوَالِيَ

And to everyone, We have appointed heirs…

- with the one who was pledged (*Halīf*)–

وَالَّذِينَ عَقَدَتْ أَيْمَانُكُمْ

… those also with whom you have made a pledge…

And the one who was pledged (*Halīf*) came to receive one-sixth of what remained (of the inheritance) as opposed to all of what remained.

The second: With His, the Most High's, statement:

وَأُوْلُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَى بِبَعْضٍ

And blood relations among each other have closer personal ties (regarding inheritance)…

This Verse abrogated the inheritance of the one who was pledged (*Halīf*) completely and no share of what remained was granted to him. However, it was still possible to bequeath (some inheritance) to him. And despite the abrogation of inheritance, the right of support for the one who was pledged (*Halīf*) remained intact, as the saying of Ibn 'Abbās will come.

And this clarifies to you the negated pledge (*Hilf*) - and from it is the abrogation of the inheritance by pledge - as well as clarifiying to you the affirmed pledge (*Hilf*) - which is the support (and assistance).

And I will mention, in that which follows, the statements of the leaders of the scholars (*'Ulamā'*), concerning that which I have mentioned beforehand. And from the best of what was said about

this matter, is what Ibn Hajar collected regarding this. As Al-Bukhārī narrated from Ibn 'Abbās (may Allāh be pleased with them both), who said:

"**And to everyone, We have appointed heirs…"** – (meaning) the inheritors. **"Those also with whom you have made a pledge…"** – 'When the Emigrants (*Muhājirīn*) came to Madīnah, the Emigrant (*Muhājir*) would inherit from the Helper (*Ansārī*), instead of the blood relatives (*Raham*), due to the brotherhood that the Prophet **صلى ا عليه وسلم** made between them. So when: **"And to everyone, We have appointed heirs…"** was revealed, this became abrogated. Then Allāh said: **"Those also with whom you have made a pledge…"** of support, assistance, and advice (would remain), and the inheritance was gone [i.e. was abrogated], yet he could still bequeath to him." [221]

Ibn Hajar said, "His statement: **"Those also with whom you have made a pledge…"** – 'When the Emigrants (*Muhājirīn*) came to Madīnah, the Emigrant (*Muhājir*) would inherit from the Helper (*Ansārī*), instead of the blood relatives (*Raham*), due to the brotherhood…' This was how Ibn 'Abbās understood it and that this (Verse) was for those to whom the Prophet **صلى ا عليه وسلم** had formed the brotherhood between. And he also understood it more generally than that as At-Tabarī narrated from him that he said, 'A man would make a pledge (*Hilf*) with a man to whom he had no blood relation, for one of them would inherit from the other. Later, that was abrogated.' And from the path of Sa'īd Ibn Jubayr, he said, 'A man would make a contract (*'Aqd)* with another man, then he would inherit from him. And Abū Bakr made a contract (*'Aqd*) with his freed slave so he inherited from him. His (i.e. Ibn 'Abbās's) statement 'So when the Verse: **"And to everyone, We have appointed heirs…"** was revealed, it (i.e. this inheritance) was abrogated.' This is how it came in this narration; that the abrogator (*Nāsikh*) of the inheritance of the one who was pledged (*Halīf*) was this Verse. And At-Tabarī narrated from the path of 'Alī Ibn Abī Talhah from Ibn 'Abbās, saying, 'A man used to form a contract

[221] Refer to *Hadīth* #4,580 within "The Book of *Tafsīr*".

(*'Aqd*) with another man. So if he died, the other one would inherit from him. So Allāh, Glorious is He, revealed: **"And blood relations among each other have closer personal ties (regarding inheritance), in the Decree of Allāh, than (the brotherhood of) the Believers and the *Muhajirīn* (emigrants from Makkah), except that you do kindness to your allies."** He (i.e. Ibn 'Abbās) said, 'Allāh is saying '… unless you bequeath for the allies to whom you have formed contracts (*'Uqūd*) with.' And from the path of Qatādah: 'That a man would form a contract (*'Aqd*) with a man in the Days of *Jāhiliyyah*, then say, 'My blood is your blood, you shall inherit from me and I shall inherit from you.' So when *Islām* came, they were ordered to grant them their share of the inheritance; that being one-sixth. Later this became abrogated by the (Verse of) inheritance. So He said: **'And blood relations among each other have closer personal ties …**' And likewise, from several paths, from a group of the scholars (*'Ulamā'*) - and this is the (opinion considered most) reliable.

And it is also possible that this abrogation took place two times (i.e. in two stages). The first, when the contractor (*Mu'āqid*) would inherit (from the deceased), instead of the family (of the deceased) inheriting. So when (the Verse): **"And to everyone…"** was revealed – which is the Verse of this chapter – then they all (i.e. the *Mu'āqid* and the family members) collectively inherited (from the deceased). And upon this (understanding), the *Hadīth* of Ibn 'Abbās should be held. Then the Verse in *Al-Ahzāb* abrogated that, and the inheritance became restricted to the family; yet, support and assistance and such, still remained for the contractor (*Mu'āqid)*. And upon this (understanding), the remaining narrations (*Āthār*) should be understood. And Ibn 'Abbās implied this (meaning) in his *Hadīth* as well; however, he did not mention the second abrogator. Yet it must be there, [222] and Allāh knows best.'

His (i.e. Ibn 'Abbās's) statement, 'Then Allāh said: **"Those also with whom you have made a pledge…"** of support, assistance, and

[222] **Trans. Note**: Meaning the fact that Ibn 'Abbās (may Allāh be pleased with them both), alluded to the second stage of abrogation, means that there must be a second *Āyah* with which the abrogation could have taken place.

advice (would remain), and the inheritance was gone [i.e. was abrogated], yet he could still bequeath to him.' This is what was presented in it yet something was missing from it, which At-Tabarī mentioned in his narration from Abū Kurayb from Abū Usāmah with his chain of narration (*Isnād*). And its phrasing was, 'Then He said: **'Those also with whom you have made a pledge, give them their due portion.'** – of support, etc…" **223** [End of the words of Ibn Hajar]

And *Shaykh* Ahmad Shākir endorsed these words of Ibn Hajar, which is that the abrogation of the inheriting of the one who was pledged (*Halīf*) took place twice (in two stages). He said, "This is a great and splendid evaluation (*Tahqīq*) from *Al-Hāfith* Ibn Hajar. And the second abrogator – in other words: **"And blood relations among each other have closer personal ties…"** – Ibn 'Abbās also mentioned this in the other two narrations from At-Tabarī, which both indicate that the first narration - the narration of Al-Bukhārī – was shortened (*Ikhtisār*)…" – until Ahmad Shākir said – "… And the meaning of the *Hadīth* of Ibn 'Abbās would be what comes through the reconciliation of his (various) narrations, that His statement: **"Those also with whom you have made a pledge, give them their due portion."** – meaning their share of the inheritance (i.e. one-sixth). Then the Verse from *Al-Ahzāb* came: **"And blood relations among each other have closer personal ties (regarding inheritance), in the Decree of Allāh, than (the brotherhood of) the Believers and the *Muhajirīn* (emigrants from Makkah), except that you do kindness to your allies."** So the inheritance was gone (i.e. was abrogated), but what remained was being generous to them in the form of bequeaths, and support, aiding and sincere conduct. And that is the 'kindness' that was left after the inheritance was gone (i.e. abrogated)." **224**

And the summary from all that which has preceded, is that there is no contradiction between the *Hadīth*, *"There is no Hilf in Islām,"* and the *Hadīth* of Anas, "The Prophet **صلى ا عليه وسلم** made a pledge (*Hilf*)

223 "*Fat'h Al-Bārī*" (8/247-249)
224 "*'Umdat At-Tafsīr Mukhtasar Tafsīr Ibn Kathīr*" (3/163)

between *Quraysh* and the *Ansār*…" So that which is negated is the *Hilf* of inheritance and the formation of pledges (*Muhālafah*) upon that which the (*Islāmic*) Legislation forbids; whereas that which has been affirmed, is the formation of pledges (*Muhālafah*) upon the performance of the obligations (*Wājibāt)* of the Religion. And this is the reconciliation between these two *Hadīths*, which was chosen by An-Nawawī, Ibn Hajar and Ibn Al-Athīr. [225] And since his statement, *"There is no Hilf…"* was an Indefinite Noun Being Used in the Context of a Negation, [226] which is from the phrases of generality - then we say that the *Hadīth* of Anas specifies (*Mukhassis*) this generalization. And Allāh knows best.

And all of this clarifies the legitimacy of the covenants among the Muslims upon the performance of the acts of obedeince.

Secondly: The Benefit and Objective of This Covenant (*'Ahd*):

The objective of the covenant that a person places upon himself cannot be except in the case of either one or two scenarios, or both:

The First Objective: To affirm (i.e. emphasize) that which is already made obligatory (*Wājib*) originally by the *Sharī'ah.*

So in the example which we are discussing - that being the military training camp – Allāh and His Messenger صلى ا عليه وسلم have commanded (us to wage) *Jihād* in the Path of Allāh, and to obey to the 'People of Authority', and to protect confidential information,

[225] **Trans. Note:** This was also the opinion of Ibn Al-Qayyim, as can be found in "*Ta'līqāt Ibn Al-Qayyim 'Alā Sunan Abī Dāwūd*", as well as Al-Abādī, in "*'Awn Al-Ma'būd Sharh Sunan Abī Dāwūd*" Al-Abādī also attributed the opinion of the negation being for the things that were forbidden to Al-Qastalānī in his *Sharh* of "*Sahīh Al-Bukhārī*" This is all found under *Hadīths* (2,536) and (2,537).

[226] **Trans. Note:** The phrase "Indefinite Noun Being Used in the Context of a Negation," is our translation of "*Nakirah Fī Sīyāq An-Nafī*", which is in the terminology of the Principles of *Islāmic* Jurisprudence (*Usūl Al-Fiqh*) and Arabic grammar.

and to fulfill the trusts, and have sincere conduct towards the Muslims, and to be kind to them. *So these matters are obligatory (Wājib) originally by Islām*, **whether or not** a person forms a covenant (*'Ahd)* to adhere to them. So then, if he *does* form a covenant to adhere to them, and undertakes an oath (*Qasam*) upon that - then these matters would become obligatory in two ways. The first of the two: their obligation *by Islām* to begin with. The second of the two: *the covenant and the oath* upon adhering to them. So the benefit of the covenant in these matters would be the emphasis of that which was obligatory (*Wājib*) in the (*Islāmic*) Legislation to begin with.

And concerning this, *Shaykh Al-Islām* Ibn Taymiyyah (may Allāh be merciful to him) said, "And that which Allāh and His Messenger have commanded, concerning the obedience to the 'People of Authority', and sincere conduct towards them - it is obligatory (*Wājib*) upon the person, **even if he does not give them a covenant (*'Ahd)* upon that, and even if he did not swear a reinforcing oath to them**. This is just like the five prayers are obligatory (*Wājib*) upon him, and the alms-giving (*Zakāt*), and the fasting (*Siyām*), and the pilgrimage (*Hajj*) to the (Sacred) House (i.e. the *Ka'bah*), and other than that, from what Allāh and His Messenger have commanded of the acts of obedience. Then if he swears upon that (i.e. to be obedient), then that is [227] a reinforcement and a reaffirmation of what Allāh and His Messenger have ordered regarding obedience to the People of Authority and sincere conduct towards them. So the one who undertakes an oath upon these matters, it is not permissible (*Halāl*) for him to perform anything in opposition to what he took the oath upon, whether he swore by Allāh, or other such oaths which the Muslims swear by. This is because, that which Allāh obligated of the obedience to the 'People of Authority' and sincere conduct towards them; this is obligatory (*Wājib*), even if he did not undertake an oath upon it. So what about if he did take an oath upon that?! And that which Allāh and His Messenger have forbade, regarding disobeying them and cheating

[227] **Trans. Note:** In the original Arabic book, there is a misprint, with the Arabic words for: "…then that is…", missing, and since this quote was used earlier in the book with the full sentence, we included it here for it to be complete.

them; this is unlawful (*Harām*), even if he did not make an oath (*Hilf*) regarding that." **[228]**

I say: And an example of this is the *Hadīth* of the Pledge of Allegiance (*Bay'ah*) of the Companion, Jarīr Ibn 'Abdillāh Al-Bajalī (may Allāh be pleased with him) to the Prophet **صلى ا عليه وسلم**. Jarīr said, "I came to the Prophet **صلى ا عليه وسلم** (and) I said, 'I give you *Bay'ah* upon *Islām*.' So he added a condition upon me, '*And with the sincere conduct (Nus'h) towards every Muslim.*' So I gave him *Bay'ah* upon this." **[229]**

And in another phrasing, Jarīr said, "I gave *Bay'ah* to the Messenger of Allāh **صلى ا عليه وسلم** upon establishing the prayer (*Salāt*) and paying the alms (*Zakāt*) and having sincere conduct (*Nus'h*) towards every Muslim." **[230]**

So the origin of making the Pledge of Allegiance (*Bay'ah*) upon *Islām*, which encompasses the prayer (*Salāt*) and the alms (*Zakāt*) due to the *Hadīth*, *"Islām is founded upon five…"* **[231]** and likewise sincere conduct is from *Islām*, due to the *Hadīth*, "*The Religion (Dīn) is sincere conduct (Nasīhah)…*" **[232]** – so if sincere conduct is mentioned, for example, as a separate condition for the *Bay'ah*, then this increases the emphasis upon sincere conduct, because in this

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[228] "*Majmū' Al-Fatāwā*" (35/9-10)

[229] Narrated by Al-Bukhārī (58).

[230] Narrated by Al-Bukhārī (57).

Trans. Note: Also narrated by Muslim, An-Nasā'ī, At-Tirmithī, Ad-Dārimī and Ahmad. Some of them are with extra phrasings.

[231] **Trans. Note:** The full text of the *Hadīth* is narrated by Al-Bukhārī and Muslim and others on the authority of Ibn 'Umar (may Allāh be pleased with them) who said, "The Messenger of Allāh **صلى ا عليه وسلم** said, '*Islām is founded upon five (pillars): the testimony that there is none worthy of being worshipped except Allāh and that Muhammad is the Messenger of Allāh, establishing the prayer (Salāt), paying the alms (Zakāt), Pilgrimage (Hajj) and fasting (the month of) Ramadhān."*

[232] **Trans. Note:** The full text of the *Hadīth* is narrated by *Imām* Muslim on the authority of Tamīm Ad-Dārī, may Allāh be pleased with him, who said, "The Messenger of Allāh **صلى ا عليه وسلم** said, '*The religion (Dīn) is sincere conduct (Nasīhah).*' It was asked, 'To whom?' He said, '*To Allāh and His Book, and His Messenger, and to the leaders of the Muslims and their common folk.*'"

case it would be obligatory for two reasons. The first of the two, because it is from the obligations of *Islām*, which has been given *Bay'ah* upon [i.e. as in the part of that *Hadīth*, *'I give you Bay'ah upon Islām.'*]. The second of the two, due to the *Bay'ah* being given upon that as a separate condition within the contract (*'Aqd)* of the *Bay'ah* [i.e. as in the part of the *Hadīth*, "So he added a condition upon me, *'And with the sincere conduct (Nus'h) towards every Muslim.'"*]. So it is obligatory (*Wājib*) in the (*Islāmic*) Legislation, and also due to the covenant (*'Ahd)* upon it.

And concerning the wisdom in stipulating these conditions for the *Bay'ah* of the Prophet صلى ا عليه وسلم upon some of the Muslims – despite their already being from the obligations of the Religion even if they were not made as stipulations – Ibn Hajar said, "And what is intended by '*Al-Bay'ah*' was to give *Bay'ah* upon *Islām*. And the first thing that the Prophet صلى ا عليه وسلم would stipulate as a condition, after *Tawhīd*, was establishing the prayer (*Salāt*), because it is the head of all bodily worship; then the payment of the alms (*Zakāt*), because it is the head all of the financial worship. Then he would teach every people what they were in greatest need of (learning). Therefore, he took *Bay'ah* from Jarīr upon sincere conduct (*Nasīhah*) because he was the leader of his people. Therefore, he guided him towards educating them, by commanding him to have sincere conduct towards them. And he took *Bay'ah* from the delegation of 'Abd-Qays upon giving *Al-Khumus* [i.e. one-fifth share of the war booty for charity], due to the fact that they were a people of warfare against the infidels (*kuffār*) of *Mudhar* who bordered them." [233]

And Al-Qurtubī said, "The Prophet صلى ا عليه وسلم used to take the *Bay'ah* from his Companions based upon what they were in greatest need of renewing or reaffirmation upon a matter. So due to that, their phrasings differed." [234]

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[233] "*Fat'h Al-Bārī*" (2/7)
[234] "*Fat'h Al-Bārī*" (1/139)

This concerns the clarification that the covenant (*'Ahd*), or Pledge of Allegiance (*Bay'ah*), upon an act of obedience which is already obligatory (*Wājib*) in Islām, increases the obligation of this obedience by emphasis. And this is the first objective of the covenant (*'Ahd)*.

And the Second Objective: For a person to adhere to what he has made obligatory upon himself, from that which the *Sharī'ah* did not originally obligate upon him.

An example of that is the personal vow (*Nathr*). [235] The (*Islāmic*) Legislation did not obligate this originally; however, if the slave obligates this upon himself by making a personal vow (*Nathr*) to Allāh that if such-and-such occurs to him, then he will do such-and-such - then it has become obligatory upon him to fulfill this personal vow (*Nathr*), because Allāh, the Most High, ordered the fulfillment of the *Nathr*:

يُوفُونَ بِالنذْرِ

They (are those who) fulfill (their) vows…[236]

Even though Allāh originally did not obligate this personal vow (*Nathr*) upon the people.

Another example is the sale of the permissible items. So if you have a particular piece of merchandise, the (*Islāmic*) Legislation has not ordered you to sell it. And if you want to sell it, then it (i.e. the *Shar'*) does not obligate you to sell it to a particular individual. And if you do sell it to a particular individual, it (i.e. the *Shar'*) has not ordered you to sell if for a particular price or to sell it at a particular time. But if you place a covenant (*'Ahd)* upon yourself, to sell this product to a specific individual, at a specific time, for a specific

[235] **Trans. Note:** A '*Nathr* ' is a personal vow between the slave and his Lord, which a person takes upon himself to adhere to and abide by. For example, if a man were to undertake a vow (*Nathr*) to accomplish something or to abstain from something, then this would be binding upon him to adhere to, even though originally this might not have been binding upon him in the *Sharī'ah*.

[236] *Al-Insān*, 7

price, then all of this has become obligatory (*Wājib*) upon you because of the covenant (*'Ahd)* which you have put upon yourself, due to His, the Most High's, statement:

وَأَوْفُواْ بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْؤُولاً

And fulfill (every) covenant (*'Ahd)*. Verily, the covenant (*'Ahd)* will be questioned about. [237]

So as for the likes of this sale, it was not obligatory in the (*Islāmic*) Legislation originally, rather it was only obligated due to the covenant (*'Ahd*), because Allāh ordered the fulfillment of the covenant (*'Ahd*). But if it weren't for this covenant, then this sale would not be obligatory upon you. Allāh, the Most High, said:

يَا أَيُّهَا الَّذِينَ آمَنُواْ أَوْفُواْ بِالْعُقُودِ

O you who believe! Fulfill (all) the contracts. [238]

And *Shaykh Al-Islām* Ibn Taymiyyah (may Allāh be merciful to him) said concerning the clarification of what is obligatory originally from the (*Islāmic*) Legislation, and that which becomes obligatory through the covenant, "And the things which Allāh has made obligatory upon the slave; He might have obligated it originally, such as His obligation of Faith (*Īmān*) and *Tawhīd* upon every person. And He might have obligated it because the slave obligated it upon himself. And if it weren't for that (i.e. the slave's making it obligatory upon himself), then Allāh would not have obligated it, such as the fulfillment of the personal vow (*Nathr*) upon the recommended deeds (*Al-Mustahabbāt*), and also what he places upon himself from the permissible contracts (*'Uqūd*), such as sales, marriage, divorce and the likes of that, as they were not (originally) obligatory (*Wājib*). And Allāh might have obligated these for both reasons, such as the Pledge of Allegiance (*Bay'ah*) of the Messenger upon listening and obeying (*As-Sam' Wat-Tā'ah*) him. And

[237] *Al-Isrā*, 34
[238] *Al-Mā'idah*, 1

similarly, the *Bay'ah* to the leaders of the Muslims, and [239] like the contracts between the people upon the performance of that which Allāh and His Messenger have commanded." [240]

And he said elsewhere, explaining the same issue, "And the basic rule of the contracts (*'Uqūd)* is that nothing is binding upon the person except what he obligated upon himself or by the Legislator (i.e. Allāh) making it binding upon him. So as for what he obligates upon himself, then that is what he formed the covenant (*'Ahd)* upon. Therefore, he cannot break the covenant and he cannot cheat regarding it. And that which the Legislator ordered him with - then it is from that which Allāh obligated upon him to fulfill, even if he did not obligate it upon himself. Just as He obligated upon him to maintain what Allāh commanded to be maintained, of Faith (*Īmān*) in the Books and the Messengers, and the ties of kinship. And for this reason, Allāh mentions this (matter) in His Book as well as the other (matters), as in His statement: **"Those who fulfill the Covenant of Allāh and break not the *Mīthāq* (bond, treaty, covenant). And those who maintain that which Allāh has commanded to be maintained…"** [241] So that which Allāh commanded to be maintained; it has been made binding by Allāh. And that which the person forms a covenant upon; then he has made it binding upon himself, so it is obligatory upon him to fulfill the covenant (*'Ahd*) of Allāh and not to break the promise (*Mīthāq*) as long as that is not in opposition to the Book of Allāh…" [242]

And based upon what has preceded, it is possible for the covenant (*'Ahd*) between the *Amīr* and the members, to be based upon matters that are originally obligatory in the (*Islāmic*) Legislation in

[239] **Trans. Note:** In the Arabic print of the book, it says: "And similarly, the *Bay'ah* to the leaders of the Muslims, like the contracts…" But in "*Majmū' Al-Fatāwā*", the word "… and…" is present, so it was added here, as it was a clear misprint. It also shows the permissibility of forming covenants upon the acts of obedience, clearer than the misprinted sentence, as this contract was mentioned as a separate type.

[240] "*Majmū' Al-Fatāwā*" (29/345-346)

[241] *Ar-Ra'd*, 20-21

[242] "*Majmū' Al-Fatāwā*" (29/341-342)

order to emphasize them, such as *Jihād,* obedience to the *Amīr,* and the protection of confidential information, and fulfilling the trusts, and sincere conduct to the Muslims – as well as the matters that are not originally obligatory in the (*Islāmic*) Legislation. And therefore these members adhere to them based upon the covenant (*'Ahd*), such as the *Amīr* putting a condition upon them to perform specific deeds, or not to leave the military training camp except at specified and known times, or to set specific times for sleeping and waking up and eating and training, and such stipulations, as long as they are not acts of disobedience (against Allāh, i.e. sins).

And these stipulations, which are made as conditions within the covenant (*'Ahd*), form the structure and internal regulations of the military camp; from them are stipulations which are originally obligatory in Islām, which the covenant affirms; and from them are stipulations which are not originally obligatory in Islām, but becomes obligatory due to the covenant (*'Ahd*).

And concerning the conditions of the covenants, *Shaykh Al-Islām* Ibn Taymiyyah (may Allāh be merciful to him) said "And in the *Sunan* from him, he said, *'The Muslims are with their stipulations [i.e. stick to their words, fulfill them], except a stipulation which permits something unlawful (Harām), or prohibits something lawful (Halāl).'* **[243]** And every stipulation (in a covenant), which is between the tribes, kings, elders (chiefs), and allies, and such - then they are upon this ruling (i.e. that they are allowed as long as they do not permit something unlawful or prohibit something lawful) according to the agreement of the scholars (*'Ulamā'*) of the Muslims." **[244]**

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[243] **Trans. Note:** From 'Amr Ibn 'Awf Al-Muzanī, and some from Abū Hurayrah and Rāfi' Ibn Khadīj, may Allāh be pleased with them. This *Hadīth* is narrated with many different phrasings, and the scholars differed on the authenticity of them. Ibn Al-Qayyim declared it "*Sahīh*" in "*Al-Furūsiyyah*", (Pg. 164), with the *Halāl* and *Harām* phrasing switched. Ibn Taymiyyah mentioned that even though each individual chain is weak, they strengthen each other. "*Majmū' Al-Fatāwā*" (29/147). Ibn Al-Qaysarānī mentioned that two of its chains are weak and one is "Nothing wrong with it (*Lā Ba's Bihi*)," in "*Thakhīrat Al-Huffāth*" (4/2,463). There are also other phrasings that have been declared authentic which are similar to this, and this is not the place to go into its details.

[244] "*Majmū' Al-Fatāwā*" (11/89-90)

And he said elsewhere, "And in summary, all of what takes place between the people of the stipulations (*Shurūt*), contracts (*'Uqūd)* and pledges (*Muhālafah*), concerning brotherhood or other than that – all of it is referred back to the Book of Allāh and the *Sunnah* of His Messenger. So every stipulation which complies with the Book and the *Sunnah*, it is to be fulfilled, and *'Whoever stipulates a condition, which is not in the Book of Allāh, then it is false - even if it is one hundred conditions. The Book of Allāh is more deserving, and His stipulation is firmer.'* **[245]** So whenever a condition is in opposition to a condition of Allāh or His Messenger, then it is false.

Similarly, concerning the terms of sales and endowments and gifts and personal vows and the contracts of *Bay'ah* to the leaders and the contracts of the *Shaykhs* (*Mashāyikh*) and the contracts of those with whom they have formed (a bond of) brotherhood with and the contracts of the people of lineage and the tribes and the likes of that." **[246]**

I say: And in that which *Shaykh Al-Islām* said, there are some challenging words. And it is that which was narrated in the *Hadīth* of 'Ā'ishah, in *Marfū'* form, **[247]** *"Whoever stipulates a condition, which is not in the Book of Allāh, then it is false (Bātil)."* So this would mean that if the *Amīr* stipulated upon the members that they must not leave the military camp except for once every two months, then this would be false, because it is not in the Book of Allāh. But this is not

[245] **Trans. Note:** Ibn Taymiyyah said that this *Hadīth* is "*Mustafīdh* (frequently narrated)" from the Prophet صلى ا عليه وسلم. "*Majmū' Al-Fatāwā*" (31/58). Ibn Hazm also used it as evidence in "*Al-Muhallā*" (8/186), and he mentioned in the introduction that he only uses authentic narrations as evidence. Also see footnote #207.

[246] "*Majmū' Al-Fatāwā*" (35/97-98)

[247] **Trans. Note:** The term "*Marfū'*", lit. "raised up", refers to those narrations, which are raised up to the Messenger of Allāh صلى ا عليه وسلم, whether they are an action or a statement, and whether they are narrated with intact chains or not. It is also not a condition for it to be attributed to the Prophet صلى ا عليه وسلم by the Companion, according to the majority of the scholars, while *Al-Khatīb* said that Companion must attribute it to the Prophet صلى ا عليه وسلم. Look to "*Al-Bā'ith Al-Hathīth Sharh Ikhtisār 'Ulūm Al-Hadīth*" (Pg. 43). Published by, "*Dār Al-Kutub Al-'Ilmiyyah*" Beirut.

the meaning; actually, the intended meaning is not that the term must be *specifically narrated within the Book and the Sunnah* - rather, the intended meaning is that this term *must not be in **opposition** to the Book and the Sunnah*.

And *Shaykh Al-Islām* clarified this in order to repel any (possible) misunderstanding of his aforementioned words. As he said, "So whenever a stipulation is in opposition to a stipulation of Allāh or His Messenger, then it is false," And he clarified it elsewhere as he (may Allāh be merciful to him) said, "And the principle is that the origin concerning the terms is that they are valid and binding with the exception of those, about which the evidence indicates its contradiction (to the Book and the *Sunnah*). And it has been claimed, 'Rather, the origin concerning them is that they are invalid except in the case where the evidence indicates their validity, due to the *Hadīth* of 'Ā'ishah.' But the former one is the correct (view), as the Book and the *Sunnah* have both indicated the fulfillment of the contracts (*'Uqūd*) and the covenants (*Uhūd*) and they have condemned (those who commit) deception and violation (of contracts in general) - and this applies when the stipulations do not contradict the Book of Allāh and His condition. But if that which has been stipulated is contradictory to the Book of Allāh and His condition, then this stipulation is invalid (*Bātil)*. And this is the meaning of his saying, *'Whoever stipulates a condition, which is not in the Book of Allāh, then it is false - even if it is one hundred conditions. The Book of Allāh is more deserving, and His stipulation is firmer.'*

Because his saying, *'Whoever stipulates a condition…'* in other words, a stipulation – and his saying, *'… which is not in the Book of Allāh …'* in other words, the stipulation is not in the Book of Allāh, so it is not from that which Allāh has made permissible…" – until he (i.e. Ibn Taymiyyah) said – "However, if the permissibility of this condition and stipulation has not been specifically mentioned by Allāh and instead He was silent about it, then it is not contradictory to the Book of Allāh and His condition, such that it could be said, *'The Book of Allāh is more deserving, and His terms are tighter.'* So His

saying, *'Whoever stipulates a term, which is not in the Book of Allāh…'* means, in contradiction to the Book of Allāh." **[248]**

The Summary: The covenants between the Muslims are permissible and they emphasize what was originally obligatory in the (*Islāmic*) Legislation, or they (can also) obligate matters which were not originally obligatory in the (*Islāmic*) Legislation - as long as they do not contradict the (*Islāmic*) Legislation.

And *Shaykh Al-Islām* (may Allāh be merciful to him) mentioned a statement that I wish to clarify. And this was his statement, which was mentioned previously: "And that which Allāh obligated upon the slave; He might have obligated it originally; such as His obligation of Faith (*Īmān*) and *Tawhīd* upon every person. And He might have obligated it because the slave obligated it upon himself. And if it weren't for that (i.e. the slave's making it obligatory upon himself), then Allāh would not have obligated it…" – until he said – "And Allāh might have obligated these for both reasons, such as the Pledge of Allegiance (*Bay'ah*) of the Messenger upon listening and obeying (*As-Sam' Wat-Tā'ah*) him. And similarly, the *Bay'ah* to the leaders of the Muslims, and like the contracts between the people upon the performance of that which Allāh and His Messenger have commanded." **[249]** So his statement, "And Allāh might have obligated these for both reasons…" - in other words, Allāh makes the matter obligatory upon the people due it being an obligation within the (*Islāmic*) Legislation originally, and also due to the contract (*'Aqd*) between the people to perform it. And he gave examples of this. And of them, was his saying, "…and like the contracts between the people upon the performance of that which Allāh and His Messenger have commanded." So this includes this joining the military training camps and the *Islāmic* groups (*Jamā'āt*) working for *Islām*. And these are the groups whose leadership (*Imārah*) was objected to, beforehand, by the author of the book "*Al-Bay'ah Bayn As-Sunnah Wal-Bid'ah*." And I have refuted him in the third chapter of this treatise, concerning his rejection of this

[248] "*Majmū' Al-Fatāwā*" (29/346-347)
[249] "*Majmū' Al-Fatāwā*" (29/345-346)

leadership (*Imārah*) and shortly, I will refute his rejection of the *Bay'ah*, *In Shā' Allāh Ta'āla*.

So these military camps and groups working to support the Truth and to work for the sake of raising the Word of Allāh to be the Highest, is obligatory for two reasons:

The first reason, due to the obligation of this within the (*Islāmic*) Legislation originally, due to Allāh's statement:

وَتَعَاوَنُواْ عَلَى الْ   وَالتَّقْوَى

And help you one another in *Al-Birr* and *At-Taqwā* (virtue, righteousness and piety)…[250]

And due to His, the Most High's statement:

وَلْتَكُن مِّنكُمْ أُمَّةٌ يَدْعُونَ إِلَى الْخَيْرِ وَيَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنكَرِ
وَأُوْلَـئِكَ هُمُ الْمُفْلِحُونَ

Let there arise out of you a group of people inviting to all that is good (*Islām*), enjoining *Al-Ma'rūf* (i.e. *Islāmic* Monotheism and all that *Islām* orders one to do) and forbidding *Al-Munkar* (polytheism and disbelief and all that *Islām* has forbidden). And it is they who are the successful. [251]

And due to His, the Most High's statement:

وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاء بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنكَرِ

The Believers, men and women, are *Awliyā'* (helpers, supporters, friends, protectors) of one another, they enjoin (on the people) *Al-Ma'rūf* (i.e. *Islāmic* Monotheism and all that *Islām* orders one to do), and forbid (people) from *Al-Munkar* (i.e. polytheism and disbelief of all kinds, and all that *Islām* has forbidden)

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[250] **Trans. Note:** *Al-Mā'idah*, 2
[251] **Trans. Note:** *Āl-Imrān*, 104

– until His statement:

أُوْلَـئِكَ سَيَرْحَمُهُمُ اللّهُ إِنَّ اللّهَ عَزِيزٌ حَكِيمٌ

… It is they whom Allāh will have His Mercy on. Surely, Allāh is All-Mighty, All-Wise. [252]

And the last Verse clarifies the importance of the allegiance (*Muwālāt*) amongst the Believers in establishing the (obligation of the) 'Enjoinment of the Good and the Forbiddance of the Evil'. And He – Glory be to Him – described them as being the successful ones, and that He – Glory be to Him – will enter them into His Mercy. And I mentioned earlier that the force, strength, and might of *Islām* cannot be established, except by the *Īmān*-based Allegiance and Alliance (*Al-Walā' Al-Īmānī*), by the unity of the Believers and their cooperation with each other to establish the obligations (*Wājibāt*) of the Religion.

The second reason, for the obligation of these groups establishing this, is their covenant (*'Ahd)* and contract (*'Aqd)* upon these duties, and it (i.e. making the contract) is permissible. So their establishment of these duties, such as the *Da'wah,* enjoining (the good), forbidding (the evil), and *Jihād* – (all of this) is originally obligatory by the (*Islāmic*) Legislation, and (an even more emphasized) obligation (*Wājib*), due to the covenant (*'Ahd*) upon it:

وَأَوْفُواْ بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْؤُولاً

And fulfill (every) covenant (*'Ahd)*. Verily, the covenant (*'Ahd)* will be questioned about. [253]

So it is obligatory (*Wājib*) due to both matters.

[252] **Trans. Note:** *At-Tawbah*, 71
[253] **Trans. Note:** *Al-Isrā*, 34

Thirdly: Is It Permissible to Appoint a Time Limit Upon the Covenant (*'Ahd*)?

And the answer is: Yes, it is permissible for the covenant (*'Ahd)* between the Muslims to be time-limited. So it is permitted to conclude it at a fixed time, just as it is allowed for the covenant (*'Ahd*) to be based upon a specific deed or (to be stipulated) with a specific stipulation.

So the specified time period – such as the *Amīr* taking a covenant from the members of the military camp, that they must continue with their training for a period of three months, for example – then the obligation of commitment to this covenant upon the members would conclude at the end of this time period. Then, if the benefit (*Maslahah*) necessitates a longer time, then the *Amīr* should renew the covenant.

And the specified deed – such as the *Amīr* taking a covenant from the members to continue training upon a specific number of weapons, whether the amount of time is long or short – then it is not permissible for him to enter permissible training except with another covenant. And if the time limit is unspecified (i.e. unknown, undecided), and one of the members cannot remain in the military camp for longer than two months, for example, then this member can put forward a stipulation for himself, that if the time period is longer than two months, then he has the right to leave at that (time). And likewise, the *Amīr* (has the right) to either accept this condition from the member, or to reject it. And the acceptance or rejection of the condition, by the *Amīr*, must be based on a valid point of general benefit (*Maslahah*) in the training (itself), and for the rest of the members, and not based upon whims (*Hawā*) and desires (*Shahwah*). And I mentioned (beforehand), in the issue of consultation (*Shūra*), that the shepherd's authority over the herd is based (solely) upon the benefits (*Maslahah*).

And the evidence which shows that it is allowed for this covenant to be time-limited, is the same as the evidences which I mentioned

in the matter of the legality of these covenants in the (*Islāmic*) Legislation. Such as:

i) The covenant between Ya'qūb عليه السلام and his sons was based upon a specific deed with a specific stipulation. And it was that he (i.e. Ya'qūb) would send their brother with them, with the condition that they undertake an oath (*Qasam*) that they will bring him back to him, unless they themselves are surrounded. He, the Most High, said:

قَالَ لَنْ أُرْسِلَهُ مَعَكُمْ حَتى تُؤْتُونِ مَوْثِقًا منَ اللّهِ لَتَأْتُنَنِي بِهِ إِلا أَن يُحَاطَ بِكُمْ

He (Ya'qūb) said: "I will not send him with you until you swear a solemn promise (*Mawthiq*) from Allāh, that you will bring him back to me unless you are yourselves surrounded (by enemies, etc.)." [254]

ii) And the covenants between Mūsā and Al-Khidhr, عليهما السلام, were upon a specific deed with specific stipulations. He, the Most High, said concerning Al-Khidhr:

قَالَ فَإِنِ اتبَعْتَنِي فَلَا تَسْأَلْنِي عَن شَيْءٍ حَتى أُحْدِثَ لَكَ مِنْهُ ذِكْرًا

He (Al-Khidhr) said: "Then, if you follow me, ask me not about anything till I myself mention it to you." [255]

And He, the Most High, said concerning what Mūsā stipulated upon himself:

قَالَ إِن سَأَلْتُكَ عَن شَيْءٍ بَعْدَهَا فَلَا تُصَاحِبْنِي قَدْ بَلَغْتَ مِن لدُنِي عُذْرًا

He (Mūsā) said: "If I ask you about anything after this, keep me not in your company, you have received an excuse from me." [256]

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[254] *Yūsuf*, 66
[255] *Al-Kahf*, 70
[256] *Al-Kahf*, 76

iii) And the covenant between Abū Tharr and 'Alī (may Allāh be pleased with them both) was upon a specific deed and a specific stipulation. And this was that 'Alī would guide Abū Tharr to where he requested if Abū Tharr would inform him of the reason he came to Makkah.

iv) And the covenant, which 'Abdur-Rahmān Ibn 'Awf took upon himself, in front of 'Uthmān and 'Alī. And it was that he would select the better of the two of them. He said, "… and Allāh is upon me (as a witness), that I will not choose except the better one from you.' Therefore, this covenant was stipulated with a specific deed, which was his selection of one of them two, may Allāh be pleased with them all.

So these are all examples of covenants (*'Uhūd*) which expire with (the completion of a) specific deed. And when that deed is completed, the burden and obligation upon both [or one of the] parties of the covenant, expire (i.e. the covenant is concluded).

And from the examples of covenants and contracts which expire (when an appointed) time (is reached), are:

v) The contract (*'Aqd)* between Mūsā and the righteous man in *Madyan* (according to Al-Qurtubī, the most correct opinion is that this man was the Prophet Shu'ayb, عليه السلام). It was termed with a specified period of time, without specifying the deed. He, the Most High, said:

قَالَ إِنِي أُرِيدُ أَنْ أُنكِحَكَ إِحْدَى ٱبْنَتَي هَاتَيْنِ عَلَى أَن تَأْجُرَنِي ثَمَانِيَ حِجَجٍ فَإِنْ أَتْمَمْتَ عَشْرًا فَمِنْ عِندِكَ

He said: "I intend to wed one of these two daughters of mine to you, on the condition that you serve me for eight years, but if you complete ten (years), then it will be (a favor) from you."

– until His statement:

قَالَ ذَلِكَ بَيْنِي وَبَيْنَكَ أَيمَا الْأَجَلَيْنِ قَضَيْتُ فَلَا عُدْوَانَ عَلَيَّ

He (Mūsā) said: "That is (settled) between me and you, whichever of the two terms I fulfill, there will be no injustice to me…" [257]

And Al-Bukhārī (may Allāh be merciful to him) specified a chapter for this (subject) within "The Book of Employment" and it is: "Chapter: If an employee is hired, and the time period is told to him, while the job is not, due to His statement: **"I intend to wed one of these two daughters of mine to you…"** – until His statement: **"… and Allāh is Surety over what we say."** [258]

So these are examples which clarify how it is allowed for the covenants to be secured with a specific deed or with a specific time limit.

Fourthly: Is It Obligatory to Write These Covenants or To Have Witnesses Upon Them?

The basic rule concerning writing the contracts (*'Uqūd*) and having witnesses upon them is that it is recommended (*Mandūb*) and permissible, as opposed to obligatory - except in cases where the evidences indicate that having witnesses is from the conditions for (the contract's) validity, such as the contract (*'Aqd)* of marriage, for example. And this place is not long enough to list all the evidence for that. And for this (reason), we will delve straight into our original topic, which is the covenants between the Muslims upon the (performance of) the acts of obedience. So we say that they are valid even without writing (them), and without having witnesses - but it is permissible to write (them) and to have witnesses upon them.

i) Such as the covenant (*'Ahd*) between Ya'qūb **عليه السلام** and his sons.

[257] *Al-Qasas*, 27-28

[258] Look to "*Fat'h Al-Bārī*" (4/444)

ii) And the covenant between Mūsā and Al-Khidhr, **عليهما السلام**. And Al-Bukhārī (may Allāh be merciful to him) narrated it in "The Book of Stipulations: Chapter – 'The Stipulations Among the People Through Statements." And Ibn Hajar said in the explanation of the *Hadīth*, "And He indicated the stipulation when he said, '**If I ask you anything after this, keep me not in your company…**' along with Mūsā's compliance with that (condition), yet they did not write it, nor did they bring anyone to witness it." [259]

iii) And the covenant between Mūsā and the righteous man from *Madyan*; He, the Most High, said:

ذَلِكَ بَيْنِي وَبَيْنَكَ أَيَمَا الْأَجَلَيْنِ قَضَيْتُ فَلَا عُدْوَانَ عَلَيَّ وَاللَّهُ عَلَى مَا نَقُولُ وَكِيلٌ

"That is (settled) between me and you, whichever of the two terms I fulfill, there will be no injustice to me, and Allāh is Surety over what we say." [260]

Al-Qurtubī said, " '**… and Allāh is Surety over what we say…**' It is said that this was from the words of Mūsā, and it is (also) said that it was from the words of the father of the woman (i.e. the righteous man from *Madyan*). So as for these two righteous men (may the Blessing of Allāh be upon them both), Allāh was sufficient for them both as a witness upon them, and they did not bring anyone from the creation as a witness." [261]

I say: And this must not be used as evidence for the permissibility of having no witnesses in the marriage (contract), because if this was valid in the Legislation of those who came before us, then our Legislation has come with what opposes that (i.e. the requirement of witnesses for the validity of a marriage contract).

iv) And the covenant between Abū Tharr and 'Alī, may Allāh be pleased with them both; they neither wrote it, nor did they have any witnesses upon it, and so on.

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[259] "*Fat'h Al-Bārī*" (5/326)
[260] *Al-Qasas*, 27-28
[261] "*Tafsīr Al-Qurtubī*" (13/280)

A Point of Benefit: Intensifying the seriousness of the covenants and promises (*At-Taghlīth*):

It is permissible to intensify the covenants and promises in gravity and seriousness (*At-Taghlīth*) amongst the Muslims with the same things that the "Vows of Witnesses in Judgments" [262] are intensified in seriousness with – yet, this is not obligatory. And *At-Taghlīth* (intensifying the magnitude) is done by a (1) phrasing, (2) time, or (3) location; either by using one of them, or by using a combination of two of them, or by using all three of them.

And the basis concerning *At-Taghlīth* (the intensification) is Allāh's statement:

يا أيها الذِينَ آمَنُواْ شَهَادَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ حِينَ الْوَصِيَّةِ

O you who Believe! When death approaches any of you, and you make a bequest, then take the testimony…

– until His statement:

تَحْبِسُونَهُمَا مِن بَعْدِ الصلاةِ فَيُقْسِمَانِ بِاللّهِ إِنِ ارْتَبْتُمْ

Detain them both after *As-Salāt* (the prayer), (then) if you are in doubt (about their truthfulness), let them both swear by Allāh… [263]

i) So *At-Taghlīth* (intensifying the weight and enormity) through the phrasing would be with the addition of the Names and Attributes of the Lord, the Most High, within the oath. Such as, "By Allāh, the One besides Whom there is none worthy of being worshipped, The Knower of the unseen and the witnessed, *Ar-Rahmān, Ar-Rahīm, At-Tālib, Al-Ghālib, Adh-Dhār, An-Nāfi'* – He Who knows the betrayals

[262] **Trans. Note:** "Vows of Witnesses in Judgments" are those oaths, which a witness testifies with concerning an issue concerning himself or another. The author goes on to explain this ahead, within this section.

[263] *Al-Mā'idah*, 106

of the eyes and all that the breasts conceal." This has been narrated from Ibn 'Abbās, may Allāh be pleased with him. [264]

ii) And *At-Taghlīth* (the intensification) through the time would be by the oath being taken after the *'Asr* prayer, [265] due to His, the Most High's, statement:

تَحْبِسُونَهُمَا مِن بَعْدِ الصلاة فَيُقْسِمَان بِاللّهِ

Detain them both after *As-Salāt* (the prayer), (then) if you are in doubt (about their truthfulness), let them both swear by Allāh… [266]

And the majority of the scholars (*'Ulamā'*) are upon (the opinion) that ***"As-Salāt"*** in this Verse is *Salāt Al-'Asr*. And this is narrated clearly in the statement of the Messenger of Allāh صلى ا عليه وسلم, *"(There are) three types of people whom Allāh will not speak to…'* – until his statement – *"… and a man who sells something to (another) man, after Al-'Asr, and then he swears by Allāh that it was given to him for such-and-such (a price,) so he (the customer) believes him and takes it, although it was not truly given to him (the merchant) for that (price)."* – Narrated by Al-Bukhārī from Abū Hurayrah. [267] And Al-Bukhārī also narrated from Abū Hurayrah, in *Marfū'* form, *"(There are) three types of people whom Allāh will not speak to on the Day of Resurrection…'* – until he said – *'… and a man who swears an untruthful vow (Yamīn) after Al-'Asr, so that he can claim the wealth of a Muslim individual."* [268]

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[264] **Trans. Note:** This phrasing was mentioned in the book "*Kash'shāf Al-Qinā' 'An Matn Al-Iqnā'*" in "The Book of Witnesses", in the "Chapter of The Vows Concerning the Claims", without being attributed to anyone. Other similar phrasings were narrated in other books of *Fiqh* also.

[265] **Trans. Note:** Another time that the scholars have mention was between the *Athān* and the *Iqāmah*. The reason for this was that it is a time when the *Du'ā'* is accepted, so it is hoped that it is also a time when a liar will be protected from his lies. Look to "*Kash'shāf Al-Qinā' 'An Matn Al-Iqnā'*" in "The Book of Witnesses", in the "Chapter of The Vows Concerning the Claims".

[266] *Al-Mā'idah*, 106

[267] *Hadīth* #7,212

[268] Refer to *Hadīth* #7,446. **Trans. Note:** Also narrated by Muslim, Ibn Mājah and Ahmad with similar phrasings which have extra sentences in them.

iii) And *At-Taghlīth* (the intensification) through the location is between the *Rukn* [Pillar (i.e. the corner of the *Ka'bah*)] and the *Maqām* [Station (i.e. Station of Ibrāhīm in the Sacred Mosque near the *Ka'bah*)] in Makkah, [269] or in *Al-Quds* (Jerusalem) at the *Sakhrah* [Rock (i.e. the rock near *Al-'Aqsa* Mosque where the Messenger of Allāh ascended during *Al-Isrā' Wal-Mi'rāj*)] **[270]** and at the *Minbar* [Pulpit (i.e. where the *Imām* delivers his sermon)] in all the countries, due to what was narrated by Mālik, Ash-Shafi'ī and Ahmad, from Jābir, in *Marfū'* form, *"Whoever swears a sinful vow (Yamīn) on this - my Minbar - then let him take his place in the Fire."* And the analogy (*Qiyās*) was made with rest of the *Minbars* in all of the Mosques and this *Hadīth* of Jābir was authenticated by *Shaykh* Al-Albānī in "*Irwā' Al-Ghalīl*". **[271]**

And the details of what has preceded (concerning these locations) are to be found within the books of judgments (*Al-Qadhā'*) and witnesses (*Ash-Shahādāt*) within the books of *Fiqh*.

Fifthly: Is It Allowed to Call This Covenant a "*Bay'ah*"?

Definition of *Bay'ah*:

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[269] **Trans. Note:** This is narrated from 'Umar Ibn Al-Khattāb (may Allāh be pleased with him) that he took an oath from a man at this location. It is narrated by Al-Bayhaqī in "*As-Sunan Al-Kubrā*" and he declared it "*Mursal*", (10/176). It is also narrated from Mu'āwiyah (may Allāh be pleased with him), as was mentioned in "*Al-Muhallā Bil-Āthār*" in "The Book of Judgments," and elsewhere.

[270] **Trans. Note:** The evidence used for this is the *Hadīth* of Rāfi' Ibn 'Amr Al-Muzanī (may Allāh be pleased with him), who said, "I heard the Messenger of Allāh**صلى ا عليه وسلم** saying: '*Al-'Ajwah and As-Sakhrah are from Al-Jannah.*'" Narrated by Ibn Mājah and Ahmad. As-Sindī said in his *Sharh* of this *Hadīth* in his *Sharh* of "*Sunan Ibn Mājah*", "As-Suyūtī said in "*An-Nihāyah*": 'He meant the *Sakhrah* in Bayt Al-Maqdis.' And in "*Az-Zawā'id*": 'Its chain is authentic, (and) its men are trustworthy.'" Al-Albānī declared it "*Dha'īf*" in "*Sahīh Ibn Mājah*" (695). *Al-'Ajwah* is a type of date from Madīnah.

[271] Refer to *Hadīth* #2,697. **Trans. Note:** Also, another very similar phrasing was declared "*Sahīh*" by Ibn Hibbān, as was mentioned in "*Bulūgh Al-Marām*" (422), and "*Sahīh or Hasan*" by Ibn Al-Mulqin in "*Tuhfat Al-Muhtāj*", (2/412). Similarly, from Abū Hurayrah (may Allāh be pleased with him), declared "*Hasan*" by Al-Bayhaqī in "*As-Sunan As-Sughrā*" (4/163).

- Ibn Al-Athīr said, "Verily, "*Al-Bay'ah*" is a term describing the formation of a contract (*'Aqd*) and a covenant (*'Ahd*) as if each of them (i.e. the one pledging and the one to whom the pledge is being given) had sold what he had from his companion and gave him his sincere self, his obedience, and his heart." [272]

- And Ar-Rāghib said, "And he gave "*Bay'ah*" to the *Sultān* when he has to guarantee to give his obedience to him, with that which was yielded to him. And this is called "*Bay'ah*" and "*Mubāya'ah*" [273]." [274]

- And Ibn Khaldūn said, "Know that the *Bay'ah* is the covenant (*'Ahd*) upon obedience (i.e. to obey), it is as if the one giving the *Bay'ah* makes a covenant (*'Ahd*) with his *Amīr* to surrendering to him the (right of) looking into the affairs of his self and the affairs of the Muslims, (and that) he will not dispute with him (i.e. the *Amīr*) concerning any of that, and that he obeys him in that which he (i.e. the *Amīr*) commands him, whether it is a pleasant order, or a disliked order. And when they would give *Bay'ah* to the *Amīr* and contract a covenant (*'Ahd*) with him, they would put their hands in his hand as an affirmation of the covenant (*'Ahd*). So since that resembles the action of the seller and the buyer, it was therefore called '*Bay'ah*', which is derived from the origin of **باع** "*Bā'a*" (i.e. sold) - and the *Bay'ah* became the shaking of hands. This is what it indicates in the customary language (*'Urf Al-Lughah*) and also within the (*Islāmic*) Legislation. And this is the meaning found in the *Hadīth* of the *Bay'ah* to the Prophet **صلى ا عليه وسلم** on the night of *Al-'Aqabah* and beneath the tree." [275]

I say: Therefore, the *Bay'ah* is a contract (*'Aqd*) or a covenant (*'Ahd*), yet the majority of its usage became in reference to the giving of the covenant (*'Ahd*) to the *Sultān*, upon listening and obeying him (*As-*

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[272] Refer to "*An-Nihāyah*" (1/174), of Ibn Al-Athīr.

[273] **Trans. Note:** The word '*Bay'ah*' refers to the actual Pledge of Allegiance itself; as for '*Mubāya'ah*' it refers to the state of having entered into a Pledge of Allegiance. So '*Mubāya'ah*' is derived from '*Bay'ah*' in this way.

[274] Refer to "*Al-Mufradāt Fi'Gharīb Al-Qur'ān*", by Ar-Rāghib Al-Asfahānī, "Subject: '*Bay*'."

[275] "*Muqaddamah Ibn Khaldūn*" (Pg. 209)

Sam' Wat-Tā'ah), as long as the *Sultān* governs with the Book and the *Sunnah*.

Ibn Hajar said, "And the basis of the *Mubāya'ah* to the *Imām* is that he is given *Bay'ah* upon acting upon the Truth, and establishing the *Islāmic* penalties (*Al-Hudūd*), and for Enjoining the Good and Forbidding the Evil." [276] And Al-Bukhārī narrated from 'Abdullāh Ibn 'Umar that he wrote to 'Abdul-Malik Ibn Marwān, giving him *Bay'ah*: "… and I affirm for you the listening and obeying (*As-Sam' Wat-Tā'ah*) upon that which is in accordance to the *Sunnah* of Allāh and the *Sunnah* of His Messenger, as much as I am capable." [277]

So is it allowed to call the covenants among the people a "*Bay'ah*"?

So the covenant (*'Ahd*), which is taken by the *Amīr* of the military camp, from the members, or the (the covenant which an) *Amīr* of a group from the *Islāmic* groups takes from its individuals - Is it permissible to call this a *Bay'ah*?

- Those who allow this, adhere to the linguistic origin of (the word) "*Bay'ah*" - which is the formation of a contract (*'Aqd*) and a covenant (*'Ahd*).
- And those who prevent this, adhere to the meaning which the word is most commonly used for - which is the formation of a covenant (*'Ahd)* with a *Sultān*; (specifically) the (Greater) *Imām* of the Muslims.

And what appears (to be most correct) is that the avoiding (the usage of this term) is more befitting, in order to repel a confusion, and this is what first enters one's mind. [278] However, the historical

[276] "*Fat'h Al-Bārī*" (13/203)
[277] *Hadīth* #7,272
[278] **Trans. Note:** The intent of the author here is to suggest that between the two opinions concerning the permissibility of calling the covenants between the Muslims, upon the performance of the acts of obedience, as '*Bay'ah*' - it can be considered preferable to avoid using this term. Not because it is incorrect from a

accounts of the Companions (*Sahābah*) indicate that it is permissible – in other words, the permissibility of labeling the covenant between the Muslims, as a "*Bay'ah*" – and some examples of that (are):

1. The calling by 'Ikrimah Ibn Abī Jahl, to the people, to give him *Bay'ah* for Death, on the Day of the Battle of *Yarmūk*. And I mentioned the event within (the chapter): **"The Legitimacy of This Covenant ('*Ahd*) In the *Sharī'ah*"**, previously. [279] And it demonstrates that 'Ikrimah was not the *Imām* of the Muslims, nor was he the *Amīr* of the army. And (this is further strengthened by the fact) that his call to this *Bay'ah* took place in the presence of one thousand *Sahābah*, and amongst them were one hundred from the People of *Badr* - just as Ibn Kathīr narrated with his chain of narration (*Isnād)* - and none of the *Shahābah* objected to him (i.e. Ikrimah). So this indicates the permissibility of calling the covenants between the Muslims, upon the performance of the acts of obedience: "*Bay'ah*".

2. The "*Mubāya'ah*" to Qays Ibn Sa'd, for Death, from forty-thousand (men) in the front lines of the army of 'Alī Ibn Abī Tālib in (the Battle of) *Siffīn*. [280] And I mentioned it within: **"The Legitimacy of This Covenant ('*Ahd*) In the *Sharī'ah*."** And about this event, the same as what was said about the *Bay'ah* of 'Ikrimah should be said, and its chain of narration (*Isnād)* is authentic (*Sahīh*).

3. Al-Bukhārī narrated from 'Abdullāh Ibn Zayd (may Allāh be pleased with him), who said, "During the "Event of *Al-Harrah*", a man came to him and said 'Verily, Ibn Hanthalah is taking *Bay'ah* from the people for Death.' So he said, "I will not give anyone

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point of *Islāmic* terminology, but because the word is so often used to refer to the *Bay'ah* of the Greater *Imām* or *Khalīfah*, and therefore the term might be misconstrued and misunderstood by those who hear it, which would result in even greater confusion concerning this topic in general. Yet the author re-affirms the permissibility of calling this covenant a *Bay'ah* in the next paragraph, due to the evidence he uses therein.

[279] Also review "*Al-Bidāyah Wan-Nihāyah*" (7/11-12)

[280] "*Fat'h Al-Bārī*" (13/63)

Bay'ah upon that (i.e. Death) after the Messenger of Allāh صلى ا عليه وسلم." [281]

This story concerning the "Event of *Al-Harrah*", which was a known place in Madīnah in 63 H. when the people of Madīnah removed Yazīd Ibn Mu'āwiyah (from power), due to the transgressions which became widely known about him. So they gave *Bay'ah* to 'Abdullāh Ibn Hanthalah as an *Amīr* over the *Ansār* and to 'Abdullāh Ibn Mutī' as an *Amīr* over Quraysh. And 'Abdullāh Ibn Hanthalah was a Companion (*Sahābī*) and his father was the Companion (*Sahābī*) Hanthalah, who was who was killed at Uhud and washed by the Angels. So Ibn Hanthalah took *Bay'ah* from the people upon fighting the army of Yazīd. And what 'Abdullāh Ibn Zayd had objected to, was the description of this *Bay'ah* – for death – yet he did not object to the basis of *Mubāya'ah* itself. And from those who objected to the removal of Yazīd, was 'Abdullāh Ibn 'Umar and 'Alī Ibn Al-Husayn and Muhammad Ibn Al-Hanifiyyah. However, those who made *Bay'ah* and rebelled against Yazīd outnumbered those who refused, as Ibn Kathīr said, "Al-Madā'inī narrated from a *Shaykh* from the people of Madīnah, 'I asked Az-Zuhrī: How many were the dead on the Day of *Al-Harrah*?' He said 'Seven hundred from the faces of the people of the *Muhājirīn* and the *Ansār,* as well as the faces of those who were loyal to them. And from those whom I did not recognize, of the free and the slaves and others, numbered ten thousand." [282]

And more examples shall be presented concerning these *Bay'ahs* and the explanation of the position of the Predecessors (*Salaf)* towards the leaders of tyranny, in what follows.

And the intended goal from what has preceded, is that labeling the covenants with "*Bay'ah*" was done in the era of the Companions (*Sahābah*) with no objection from anyone - which makes it possible

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[281] *Hadīth* #2,959 in *Kitāb Al-Jihād* – "Chapter: Making *Bay'ah* During the War to not Retreat".

[282] "*Al-Bidāyah Wan-Nihāyah"* (8/321) and review that also in "*Al-Bidāyah Wan-Nihāyah*" (8/217) and what follows it; and also "*Fat'h Al-Bārī*" (6/117-119) and (13/68-71).

to include this issue in the consensuses (*Ijmā'āt*) of the *Sahābah*. As for those who did object, then they did not object to the labeling itself, rather they merely objected to a specific attribute of these *Bay'ahs*. As 'Abdullāh Ibn Zayd objected to the *Bay'ah* for Death, and he stated that this was restricted to the Messenger of Allāh **صلى ا عليه وسلم**, yet this exact statement of 'Abdullāh Ibn Zayd is challenged by the *Bay'ah* of 'Ikrimah from those who were with him, upon death, and likewise, Qays Ibn Sa'd. This is if we agree that the *Bay'ah* of *Ar-Ridhwān* was for Death. [283] And likewise, the objection of Ibn 'Umar to the people of Madīnah was not because of their usage of the term "*Bay'ah*", rather it was due to their removal of Yazīd after they had given him *Bay'ah*. [284] And due to that, he did not object to Al-Hasan, the son of 'Alī, when the people of *Al-Kūfah* gave him *Bay'ah* because Al-Husayn (who was with him, and amongst the people of *Al-Kūfah*) had refused to give *Bay'ah* to Yazīd. So Ibn 'Umar did not give Al-Husayn any further advice, except that he should not go to Al-'Irāq. [285] And likewise, Ibn 'Abbās did (offer further advice) and he added, "But rather, go to Yemen, because therein are fortresses and (defendable) mountain passes and your father has a following there. So seclude yourself and avoid the people and write to them and send your preachers to them, because I am hopeful that if you do that, what you desire will indeed happen." [286]

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[283] "*Fat'h Al-Bārī*" (6/118)

[284] "*Fat'h Al-Bārī*" (13/68)

[285] "*Al-Bidāyah Wan-Nihāyah*" (8/160)

Trans. Note: The point of the author here is that in the example of Ibn 'Umar objecting to the *Bay'ah* from the people of Madīnah to Ibn Hanthalah, regarding the removal of Yazīd, **was not because he disapproved** of the application of the term "*Bay'ah*" upon this covenant. And it was not because he objected to people giving *Bay'ah* generally – Rather, it was because the people of Madīnah already had given *Bay'ah* to Yazīd, and he considered this covenant to be valid and intact. So for this reason, he objected to their action. And what proves this is the fact that later, when Al-Hasan took *Bay'ah* from the people in *Al-Kūfah*, (i.e. in Al-'Irāq), he (Ibn 'Umar) did not object to it because those people, including Al-Husayn, had not given Yazīd a *Bay'ah* previously. So his objection could not have been upon their usage of the term "*Bay'ah*" itself, or with the action of giving *Bay'ah* generally – rather, it was upon their attempt to remove Yazīd.

[286] "*Al-Bidāyah Wan-Nihāyah*" (8/160)

Sixthly: What Is the Difference Between These *Bay'ahs*, And the *Bay'ah* of the *Imām*?

The differences are from various angles. I will mention the most important ones.

1. **The one pledging the *Bay'ah*:** The *Bay'ah* to the *Imām* of the Muslims is made by the "*Ahl Al-Hall Wal-'Aqd*" [287] from the nation (*Ummah*) or the former *Khalīfah* through a covenant (*'Ahd*) from him, unless someone conquers them by the sword. As for the *Bay'ahs* between the people – their covenants – upon the performance of the acts of obedience, these are not in need of this, because it is for the laymen to form these covenants amongst themselves, upon the performance of the acts of obedience.

2. **The one to whom the *Bay'ah* is pledged:** In the *Bay'ah* of the *Imām* (*Imāmah*), he who the *Bay'ah* is pledged to, must posses all the (necessary) conditions of governance (*Imāmah*). [288] And some of the conditions could be excluded concerning the one who conquers by force; however, the *Bay'ahs* of the people – their covenants upon the performance of the acts of obedience – they are not held to these same conditions, as it is for the laymen to form these covenants.

3. **That which the *Bay'ah* is made upon:** The *Bay'ah* of *Imāmah* puts upon the *Imām* specific obligations - that in general, are the establishment of the *Sharī'ah* within the Muslim nation. [And Al-Māwardī explained (and separated) them into ten obligations. [289]] And this *Bay'ah* puts upon the nation to listen to and obey the *Imām* and support him as long as his condition does not change. [290]

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[287] **Trans. Note:** The term "People of *Al-Hall Wal-'Aqd*" lit. "People of Authority and Contract", refers to the council that is in charge of the selection of the *Khalīfah* and who enters him into this role on behalf of the nation (*Ummah*). This term is used fairly frequently throughout the treatise, so we've defined it here so that we can just use the term from this point forward without any further explanation.

[288] Refer to "*Al-Ahkām As-Sultāniyyah*" (Pg. 7), of Al-Māwardī.

[289] Pg. 15-16

[290] Refer to "*Al-Ahkām As-Sultāniyyah*" (Pg. 17), of Al-Māwardī.

However, the *Bay'ahs* of the people – their covenants – then it is (allowed) for them to form these covenants upon performing any duty from the various acts of obedience, without restriction, such as *Jihād, Da'wah,* and the Enjoining of the Good and the Forbidding of the Evil, and assisting the anxious and helping the oppressed. Even removing an obstacle from the pathway - it is permissible for them to make a covenant upon that, because it is a branch from the branches of Faith (*Īmān*).

4. **The obligation and the duty:** The *Bay'ah* to the *Imām* of the Muslims is obligatory (*Wājib*) upon every Muslim, due to the *Hadīth* of the Prophet صلى ا عليه وسلم, *"… and there will be successors (Khulafā') who will become many."* They asked, "Then what do you order us (to do)?" He said, "*Fulfill the (rights of the) Pledge of Allegiance (Bay'ah) of the earliest then the (second) earliest…"* – Agreed upon, from Abū Hurayrah. So he ordered the fulfillment of the *Bay'ah* to them, and condemned the one who does not give *Bay'ah*, in his صلى ا عليه وسلم saying, *"Whoever dies while he does not have a Bay'ah upon his neck - he dies a death of Jāhiliyyah (pre-Islāmic Ignorance)."* – narrated by Muslim, from Ibn 'Umar. And he صلى ا عليه وسلم said, *"Adhere to the group (Jamā'ah) of the Muslims, and their Imām."* – Agreed upon, from Huthayfah. And Ahmad Ibn Hanbal said, "And whoever overpowers them with the sword, until he becomes the *Khalīfah* and is called '*Amīr Al-Mu'minīn*' - then it is not permissible for anyone who believes in Allāh and the Last Day, to pass the night without recognizing him as an *Imām* upon him, whether he (i.e. the *Khalīfah*) is a righteous man (*Birr*) or a wicked man (*Fājir*), because he is *Amīr Al-Mu'minīn*." **[291]** To the extent that this issue started to be mentioned within the books of the Belief of *Ahl As-Sunnah*.

   However, the *Bay'ahs* between the people – their covenants, upon the performance of the acts of obedience – they are not obligatory, except upon those who enter into them willingly. So it is obligatory upon him due to the covenant, which he puts upon himself, such as when two form a covenant to memorize the *Qur'ān*, or a portion of it. This is because memorizing the *Qur'ān* is not individually

[291] Refer to "*Al-Ahkām As-Sultāniyyah*" (Pg. 20, 23), of Abū Ya'lā.

compulsory (*Fardh 'Ayn*). In other words, it is not obligatory (*Wājib*) upon each and every Muslim; however, if a person forms a covenant (*'Ahd*) upon that, then it becomes obligatory upon him.

So in summary, the *Bay'ah* of the *Imām* of the Muslims is originally obligatory (*Wājib*) to begin with in the (*Islāmic*) Legislation; but as for the *Bay'ahs* amongst the people – their covenants – then they are obligatory through the covenant of those who hold them upon themselves (i.e. entered into it). As its explanation has preceded, concerning that which is obligatory from the (*Islāmic*) Legislation and that which is obligatory by the covenant, and that which is obligatory because of both.

And the *Bay'ah* of the *Imām* of the Muslims is obligatory upon every Muslim: *"Adhere to the group (Jamā'ah) of the Muslims, and their Imām."* But the *Bay'ahs* of the people – their covenants – they are not obligatory upon every Muslim, rather upon he who holds it upon himself (i.e. entered into it).

And here is an issue, which must be addressed, and I have explained it before. And it is that *Jihād* in the Path of Allāh is currently individually compulsory (*Fardh 'Ayn*) on almost every Muslim, so it is originally obligatory (*Wājib*) within the (*Islāmic*) Legislation to begin with. Then if the Muslim finds a group which is performing *Jihād* in the Path of Allāh, then it is obligatory upon him to adhere to it. Then if these groups are numerous within one country, then it is as I have mentioned previously, that the earliest one of these groups – and which are upon the Truth - is the most deserving to be adhered to. And if the groups are abundant in many countries, then he must look to the one which is confronting the greatest threats, and about which there is a strong assumption that it might prevail - then he must support this group.

5. **The time period:** The *Bay'ah* to the *Imām* is unending and is not severed unless the *Imām* dies or something comes upon him which obligates his removal, such as a deficiency in Religion (*Dīn*) or a

deficiency in body. [292] As for the *Bay'ahs* of the people – their covenants – then I have previously mentioned that it is permissible for them to be time-limited. So it is allowed for them to choose the length of time, unlike the *Bay'ah* of the *Imām*.

6. **Being numerous:** It is not valid to make the contract (*'Aqd*) of governance (*Imāmah*) to two *Imāms* over the Muslims. And the Messenger of Allāh صلى ا عليه وسلم has stated, "*Fulfill the (rights of the) Pledge of Allegiance (Bay'ah) of the earliest then the (second) earliest…*" – Agreed upon, from Abū Hurayrah. And he صلى ا عليه وسلم said, *"If two Khalīfahs are given the Pledge of Allegiance (Al-Bay'ah), then kill the latter of the two."* – narrated by Muslim, from Abū Sa'īd Al-Khudrī. So it is invalid to have numerous *Imāms*, and it is not valid for the Muslims to give two *Bay'ahs* to two *Imāms*.

   As for the *Bay'ahs* of the people – their covenants – they are allowed to be numerous as long as that which the *Bay'ah* is based upon, is able to be numerous. So it is permissible for an individual to form a covenant with an assembly, upon memorizing the *Qur'ān*, and it is allowed for the same individual to form a covenant with another assembly upon memorizing the *Hadīth* of the Prophet صلى ا عليه وسلم. It is even allowed for him to form a covenant (*'Ahd*) with more than one group upon memorizing the *Hadīth* if a group from them is intending to memorize from Al-Bukhārī and the other from Muslim, and so on, as long as it is within his ability to fulfill all of that. As for that which it is not possible to be numerous, and it is *Al-Jihād*, as I mentioned previously, then it is not valid for him to form a covenant with more than one party (*Tā'ifah*), and it is not correct for the groups that are working for *Jihād* to be numerous, because the *Jihād* cannot established except with force, which is only the fruit of unity and mutual loyalty (*Muwālāt*):

وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنكَرِ

[292] Look to "The Causes for Removal", in "*Al-Ahkām As-Sultāniyyah*", by Al-Māwardī

The Believers, men and women, are *Awliyā'* (helpers, supporters, friends, protectors) of one another, they enjoin (on the people) *Al-Ma'rūf* (i.e. *Islāmic* Monotheism and all that *Islām* orders one to do), and they forbid (people) from *Al-Munkar* (i.e. polytheism and disbelief of all kinds, and all that *Islām* has forbidden). [293]

And being numerous negates the mutual loyalty (*Muwālāt*) and it even leads to the loss of this force:

وَلاَ تَنَازَعُواْ فَتَفْشَلُواْ وَتَذْهَبَ ر ُكُمْ وَاصْبِرُواْ

… and do not dispute (with one another) lest you lose courage and your strength departs, and be patient. [294]

Likewise, being numerous leads to the harming of every group towards the others, due to the collision of strategies and plans, and the absence of coordination and organization. As one party (*Tā'ifah*) might perform an armed operation, which could lead the enemy to strike another party, which is not ready for confrontation. And the *Sharī'ah*-based rule is: "*The Harm is to be Removed*." [295] And all of these are from the evils of being numerous (i.e. groups not uniting).

This, and I have mentioned previously, the remedy for this disease in the end of the third chapter of this treatise.

7. **The *Hadīths* of *Bay'ah*:** The *Hadīths*, in which the *Bay'ah* is mentioned, are all to be held – with the exception of the *Bay'ahs* that took place between the Prophet صلى ا عليه وسلم and his Companions –

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293 **Trans. Note:** *At-Tawbah*, 71

294 **Trans. Note:** *Al-Anfāl*, 46

295 **Trans. Note:** "The Harm is to be Removed" is our translation of "*Adh-Dharar Yuzāl*", which is the rule in *Islāmic* Jurisprudence (*Fiqh*), that states that any action, which is taken for reform should not result in a greater harm. Although there are some who, due to negligence, have taken this rule to outright prevent any military operations against the enemies of *Islām*, *Shaykh* 'Abdul-Qādir, may Allāh free him, has incorporated this rule within the considerations of these operations so that they do not result in a greater burden on the Believers. And may Allāh give victory to his Religion and support those *Mujāhidīn* who strive with their wealth and their lives in the Path of Allāh, the Most High.

upon the *Bay'ah* of the *Imām* of the Muslims; the *Khalīfah* or the *Amīr Al-Mu'minīn* or the *Sultān*. And this has been affirmed for us by *Istiqrā'* [296] in what we have researched. And it is not correct to hold these *Hadīths* under any condition, upon the covenants of the groups (*Jamā'āt*), even if they call their covenants "*Bay'ahs*", and this is permissible, as I mentioned previously.

And the *Hadīths* which have been narrated with the mentioning of "*Bay'ah*", were either restricted to the *Bay'ah* of the *Imām*, or in unrestricted terms without mentioning the *Imām*. So that which is obligatory, is to apply the absolute (phrasing) upon the restricted (phrasing), especially if the ruling and the reason [for the ruling (*Sabab*)] are one, according to the (opinion of the) majority of the People of Knowledge.

And from the *Hadīths* where the *Bay'ah* has been narrated, being restricted to the *Imām*, are:

- The statement of the Prophet صلى ا عليه وسلم, *"… and there will be successors (Khulafā') who will become many."* They asked, "Then what do you order us (to do)?" He said, *"Fulfill the (rights of the) Pledge of Allegiance (Bay'ah) of the earliest then the (second) earliest."* – Agreed upon, from Abū Hurayrah.

- The statement of the Prophet صلى ا عليه وسلم, *"If two Khalīfahs are given the Pledge of Allegiance (Al-Bay'ah), then kill the latter of the two."* Narrated by Muslim from Abū Sa'īd.

- The statement of the Prophet صلى ا عليه وسلم, *"Whoever pledges Bay'ah to an Imām, giving him the contract of his hand and the fruit of his heart, then he must obey him to the best of his ability. Then if another comes and*

[296] **Trans. Note:** *Istiqrā'* (i.e. widespread investigation), meaning that when we investigate all the various narrations, in which this term is generally used, we see that the context refers to the *Bay'ah* of the *Imām* of the Muslims. This of course does not include the narrations cited earlier, such as the *Athar* of 'Ikrimah and Qays Ibn Sa'd, etc. in which it is clear that the *Bay'ah* being called to was a *Bay'ah* upon fighting etc. And this will be clarified shortly, *In Shā' Allāh*.

disputes with him (i.e. the Imām), then strike the neck of the other." – narrated by Muslim, from 'Abdullāh Ibn 'Amr.

As for the *Hadīths* in which the *Bay'ah* was narrated in unrestricted terms - then the most important of them is the *Hadīth* of Ibn 'Umar, from the Prophet **صلى ا عليه وسلم**, *"Whoever dies while he does not have a Bay'ah upon his neck - he dies a death of Jāhiliyyah (pre-Islāmic Ignorance)."* – narrated by Muslim. And that which caused us to declare that this *Bay'ah* refers to the *Bay'ah* to the *Imām* of the Muslims, even though it was phrased in unrestricted terms, is the *Hadīth* of Ibn 'Abbās, in *Marfū'* form, *"Whoever hates something from his Amīr, then he should be patient, because whoever departs (the distance of) one hand-span away from the Sultān, then he dies a death of Jāhiliyyah."* – narrated by Al-Bukhārī. And departing from the *Sultān*, is striving to break his *Bay'ah.* [297] So the cause (*Sabab*) in the two *Hadīths* – i.e. the *Hadīth* of Ibn 'Umar and the *Hadīth* of Ibn 'Abbās – is one, and that is the departure from the *Bay'ah* of the *Sultān*, or avoiding giving *Bay'ah* to him after the people have agreed upon him. And the ruling in both *Hadīths* is the same, and it is the death of *Jāhiliyyah* for the one who does that, and the clarification of its meaning will be come soon. So it is obligatory, due to that, to hold the unrestricted – i.e. the *Hadīth* of Ibn 'Umar – upon the restricted – i.e. the *Hadīth* of Ibn 'Abbās. And (we must conclude) that the intended *Bay'ah* in the *Hadīth* of Ibn 'Umar, is the *Bay'ah* of the *Imām*, if he exists, because the *Hadīth* of Ibn 'Abbās mentioned that this was the ruling of the one who rebels against the *Sultān*. So this necessitates the presence of a *Sultān* who could be rebelled against (in the first place).

I say: And due to that, Ibn Hajar narrated the previous *Hadīth* of Ibn 'Umar in the explanation of the *Hadīth* of Ibn 'Abbās, which was referred to, so the *Sharh* (explanation) may be reviewed. [298]

And I wanted to clarify this, because some of the groups (*Jamā'āt*), which are established nowadays, use this *Hadīth* of Ibn 'Umar to

[297] "*Fat'h Al-Bārī*" (13/7)
[298] "*Fat'h Al-Bārī*" (13/6-7)

call the people to give *Bay'ah* to their *Amīr*. And they say to the one being invited, *"Whoever dies while he does not have a Bay'ah upon his neck - he dies a death of Jāhiliyyah (pre-Islāmic Ignorance),"* frightening him with this *Hadīth*. But the matter is not like that, as I explained, because the "*Bay'ah*" in the *Hadīth* of Ibn 'Umar, is the *Bay'ah* to the *Imām* of the Muslims. And it is not to be applied upon other than this direction, because this is an alteration of the texts, like the action of the Jews. He, the Most High, said:

يُحَرِّفُونَ الْكَلِمَ عَن مَّوَاضِعِهِ

They alter the words from their (right) places… [299]

And He, the Most High, said:

يُحَرِّفُونَ الْكَلِمَ مِن بَعْدِ مَوَاضِعِهِ

They alter the words after they were placed in their (right) places… [300]

And the Messenger of Allāh صلى ا عليه وسلم said, *"You shall follow the traditions of those who came before you, hand-span by hand-span and arm-length by arm-length, to such a degree, if they were to enter the hole of a lizard, you too would follow them."* We asked, 'O Messenger of Allāh, (do you mean) the Jews and the Christians?' He said, *'Then who else?"* – Agreed upon, from Abū Sa'īd Al-Khudrī.

So, does my aforementioned discussion, which was that the "*Bay'ah*" in the *Hadīth* of Ibn 'Umar is regarding the *Bay'ah* to the *Khalīfah*, imply lifting the sin off of the Muslims, as they currently have no *Khalīfah*? I say: No, on the contrary. This *Hadīth* – in my opinion – is one of the strongest evidences for the obligation upon the Muslims to strive to establish a *Khalīfah* for them. And this cannot be achieved except through *Jihād* in most cases. And furthermore, in my view – and Allāh is the Most Knowledgeable of what is the Truth – is that every Muslim who dies now (in our

[299] *An-Nisā*, 46 & *Al-Mā'idah*, 13
[300] *Al-Mā'idah*, 41

time), while there is no *Khalīfah* for the Muslims; he is sinful, and the condemnation which was narrated in the *Hadīth* of Ibn 'Umar, applies upon him: *"… he dies a death of Jāhiliyyah."* In other words, he dies upon sin, and not upon *kufr* - and its elucidation will come – (so he dies upon *Jāhiliyyah*) unless he was from those who strove for this cause, even if he did not accomplish the goal of establishing the *Islāmic* State and the setting up of a *Khalīfah*. (And this is the exception) due to Allāh's statement:

وَمَن يَخْرُجْ مِن بَيْتِهِ مُهَاجِرًا إِلَى اللَّهِ وَرَسُولِهِ ثُمَّ يُدْرِكْهُ الْمَوْتُ فَقَدْ وَقَعَ أَجْرُهُ عَلَى اللَّهِ

And whosoever leaves his home as an emigrant unto Allāh and His Messenger, and then death overtakes him, his reward is then surely incumbent upon Allāh. [301]

Or if he was incapable of striving for this cause, yet his intention was sincerely truthful in seeking it, (then he would be excused), due to the *Hadīth* that has previously been mentioned regarding the people who are excused. The Messenger of Allāh صلى ا عليه وسلم said, during a battle, *"Verily, in Madīnah, there are men who, you do not travel any journey, nor cross any valley, except that they are sharing in your reward, however illness has held them back."* – narrated by Muslim, from Jābir. And its explanation has passed within the second chapter.

And that which has preceded does not contradict the *Hadīth*, "But, if they have no group (*Jamā'ah*) and no leader (*Imām*)?' He said, *"Then avoid all those sects (Al-Firaq)…"* – Agreed upon, from Huthayfah. As I have explained earlier, that the *Hadīth* of The Victorious Party (*At-Tā'ifah Al-Mansūrah*) restricts the generality of this avoidance (*I'tizāl*), as I mentioned at the end of the third chapter. Especially since the texts have indicated that there is a "Rightly-Guided *Khilāfah*" approaching, *In Shā' Allāh Ta'āla*, so it is obligatory (*Wājib*) to strive for that. And from these texts, is the *Hadīth* from Abū Hurayrah, in *Marfū'* form, *"How will you be when*

[301] *An-Nisā'*, 100

Ibn Maryam will descend among you while your Imām is from yourselves?" – Agreed upon.

And the *Hadīths* are oft-narrated (*Mutawātir*), concerning the emergence of the *Khalīfah*, "Al-Mahdī", and it is said that he is the *Imām* that 'Īsā عليه السلام will pray behind. [302] And also from them is the *Hadīth* of Huthayfah Ibn Al-Yamān, in *Marfū'* form, *"The Prophethood will remain among you for as long as Allāh wills…"* – the *Hadīth,* and it will be presented in full, soon. And there are *Hadīths* which indicate that the Mahdī will emerge upon the death of the *Khalīfah* – the *Hadīth* of Umm Salamah, narrated by Ahmad and Abū Dāwūd. [303] Therefore, there is a *Khilāfah* before the emergence of the Mahdī. So these texts, along with that which is indicated by the *Hadīth* of Ibn 'Umar, *"Whoever dies while he does not have a Bay'ah upon his neck…"* causes us to declare that it is obligatory to strive for the establishment of the *Khilāfah*, with the knowledge that the *Bay'ahs* of the *Islāmic* groups (*Jamā'āt*) now, do not remove this sin, as there are some who have gone to (the opinion) that if he were to (merely) give *Bay'ah* to an *Amīr* of any group (*Jamā'ah*), that the sin would be removed from him, meaning the sin which was mentioned in the *Hadīth*, *"Whoever dies while he does not have a Bay'ah upon his neck…"* So the *Bay'ah* in this *Hadīth* is the *Bay'ah* of the Great *Imām* and its clarification has passed – **and the sin is not removed from the Muslims, except by (striving utmost for) establishing this *Imām*** - and Allāh, the Most High, knows best.

8. **The ruling upon he who violates it**: In other words- Is the ruling upon the one who breaks the *Bay'ah* of the *Imām* of the Muslims, the same as the ruling upon the one who does not fulfill his covenant (*'Ahd*) with an group (*Tā'ifah*) or with a man from the Muslims?

   The clarification of this issue will come in the following topic, *In Shā' Allāh Ta'āla.*

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[302] Refer to "*Fat'h Al-Bārī*" (6/494), and the book "*Al-Ithā'ah Limā Kāna Wa Yakūnu Bayna Yaday As-Sā'ah*", by Siddīq Hasan Al-Qanūjī (Pg. 123-124) and the book "*An-Nihāyah*" or "*Al-Fitan Wal-Malāhim*"(1/27), by Ibn Kathīr.

[303] Refer to "*Al-Ithā'ah*" (Pg. 128) and "*An-Nihāyah*" (1/29).

Point of Benefit: And concerning what I mentioned above, that there is a "Rightly-Guided *Khilāfah*" forthcoming, *In Shā' Allāh Ta'āla* – I will mention what *Shaykh* (Nāsir Ad-Dīn) Al-Albānī mentioned in the introduction to the book "*Al-Hukm Al-Jadīrah Bil-Ithā'ah Min Qawl An-Nabī,* صلى ا عليه وسلم: *'**Bu'ithtu Bis-Sayfī Bayna Yaday As-Sā'ah**'*" [304] by Ibn Rajab Al-Hanbalī, published by "*Dār Marjān*".

He said, "The Future is For *Islām*": "Allāh, Glorified is He, said:

هُوَ الذِي أَرْسَلَ رَسُولَهُ بِالْهُدَى وَدِينِ الْحَقِ لِيُظْهِرَهُ عَلى الدينِ كُلِهِ وَلَوْ كَرِهَ الْمُشْرِكُونَ

It is He Who has sent His Messenger with guidance and the Religion of Truth (*Islām*), to make it superior over all religions even though the *mushrikūn* (polytheists) hate (it). [305]

So this noble Verse gives us glad tidings that the future is for *Islām* with its supremacy, dominance, and sovereignty above all other religions. And some people might assume that this occurred during the Prophet's time and in the time of the Rightly Guided Caliphs (*Al-Khulafā' Ar-Rāshidīn*) and in the time of the pious kings. Yet it is not like that, because what occurred was only a portion of this Truthful Promise, just as the Prophet صلى ا عليه وسلم indicated to with his statement:

1. The Messenger of Allāh صلى ا عليه وسلم said, *"The night and day will not depart until (the idols of) Al-Lāt and Al-'Uzzā are worshiped."* So 'Ā'ishah said, 'O Messenger of Allāh, I thought that when Allāh, Glorified is He, revealed: **It is He Who has sent His Messenger with guidance and the Religion of Truth (*Islām*), to make it superior over all religions…** that this had ended.' So he صلى ا عليه وسلم said, *'This will be for as long as Allāh, Glorified is He, wills. Then He*

[304] **Trans. Note:** Which means: "The Verdict Which Deserves Mentioning, from the Statement of the Prophet, Peace and Blessings be upon him, *'I Was Sent With the Sword Between the Hands of the Hour.'*"
[305] **Trans. Note:** *At-Tawbah*, 33

will send a pleasant wind (Rīhan Tayyibah) and it will cause the death of everyone who possesses even the weight of a mustard seed of Īmān in his heart. So (only) those, in whom there is no goodness, will remain and they will return to the religion of their forefathers." – Narrated by Muslim, with his chain of narration from 'Ā'ishah.

And other *Hadīths* have been narrated, which clarify the degree of the spreading of *Islām* and the extent of its reach, so that there would be no doubt left that the future is for *Islām*, by the permission of Allāh and His granted success. And now I will mention what I can from these *Hadīths*, in hopes that it will be a means for raising the determinations of those working for *Islām*, and a clarifying argument (*Hujjah*) against those who despair, who solely depend on others without taking any action:

2. The Messenger of Allāh صلى ا عليه وسلم said, *"Verily, Allāh gathered up the Earth for me. So I saw its East and its West, and verily, my nation will have its dominion attain (all) of what was laid out for me."* [306]

3. The Messenger of Allāh صلى ا عليه وسلم said, *"This matter (i.e. Islām) will arrive at wherever the night and day arrive. And Allāh will not leave a clay house nor a house made from hides covered in fur, except that Allāh will enter this Religion into it with the glory of the noble one or the humiliation of the dishonored one; glory by which Allāh gives glory to Islām, or humiliation by which Allāh humiliates kufr."* – Narrated by a group, which I mentioned in "*Tah'thīr As-Sājid*".[307] And that which there is no doubt about, is that for this spreading to arrive, it is necessary for the Muslims to revive their morale, wealth, and weapons, so that they will be able to overpower of the forces of *kufr* and transgression. And this is what is given glad tidings about, by the *Hadīth*:

4. From Abū Qubayl, who said, "We were at (the home of) 'Abdullāh Ibn 'Amr Ibn Al-'Ās, and he was asked which of the two cities

[306] The *Hadīth* – narrated by Muslim, Abū Dāwūd and At-Tirmithī, from Thawbān.
[307] Pg. 121

would be conquered first, Constantinople or Rome. So 'Abdullāh called for a sealed trunk. So he removed a parchment from it. So 'Abdullāh said, 'While we were around the Messenger of Allāh صلى ا عليه وسلم, writing (his *Hadīths*), the Messenger of Allāh صلى ا عليه وسلم was asked, 'Which of the two cities would be conquered first? Constantinople or Rome?' So the Messenger of Allāh صلى ا عليه وسلم said, *'The city of Heraclius will be conquered first.'* In other words, Constantinople." – Narrated by Ahmad and Ad-Dārimī, and it was authenticated by Al-Hākim, and Ath-Thahabī agreed, and it is as they said. And "*Rūmiyah*" [(Rome) in the *Hadīth*] refers to "Roma", as in "*Mu'jam Al-Buldān*", which is the capital of modern-day Italy. And the first conquest took place upon the hand of Muhammad Al-Fātih Al-'Uthmānī, as it is well known. [308] And that occurred more

[308] **Trans. Note:** These words from Al-Albānī must be explained, due to him being mistaken in regards to this matter. Firstly, the matter is that the *Hadīths* regarding the Conquest of Constantinople are of two types, a) *Hadīths* which mention the virtue of the first ones who attack (*Ghazw*) this city; and b) *Hadīths* which mention the virtue of the one at whose hand this city is conquered. And in reality, none of the two types of *Hadīths* are applicable upon Muhammad Al-Fātih Al-'Uthmānī. And this becomes clear from:

1) In Al-Bukhārī, the Book of *Jihād*, Chapter of the Campaign of the Sea – from Umm Harām Bint Malhān (may Allāh be pleased with her) that she heard the Prophet (saw) saying, "The first army from my *Ummah* which will attack the City of Caesar (Heraclius), they will be forgiven." So I (i.e. Umm Harām) said, "Am I amongst them, O Messenger of Allāh?" He replied, "No." *Al-Hāfith* Ibn Hajar commented that the "City of Caesar (Heraclius)" mentioned here, is Constantinople.

Shaykh Al-Islām Ibn Taymiyyah (may Allāh have mercy upon him) said, "And according to consensus (*Ijmā'*), the first army which attacked it (Constantinople) was under the command of Yazīd ibn Mu'āwiyah, and some of the Companions were under his leadership as well, and amongst them was Abū Ayyūb Al-Ansārī." [Refer to the beginning of the third volume of *Majmū' Al-Fatāwā*, when he was asked, *"Is Yazīd ibn Mu'āwiyah to be cursed, or not?"*].

2) In Muslim, in the Book of Tribulations, from Abū Hurayrah (may Allāh be pleased with him), that the Prophet said, "You have heard about a city, one side of which is in the land and the other side is in the sea (i.e. Constantinople). They said: "Yes, O Messenger of Allāh!" Thereupon he said: "The Last Hour would not come unless seventy thousand persons from the Children of Is'hāq [the

than eight hundred years after the Prophet صلى ا عليه وسلم informed (us) about its conquest. And the second conquest will take place, by the permission of Allāh, the Most High, and it is a must. And you shall certainly know the Truth of it after a while.

And there is also no doubt that the occurrence of this second conquest – the conquest of Rome – means the return of the "Rightly-Guided *Khilāfah*" to the Muslim Nation, and this is from what we are given glad tidings of, in his statement, in the *Hadīth*:

5. The Messenger of Allāh صلى ا عليه وسلم said, *"The Prophethood will remain among you as long as Allāh wishes it to remain, then Allāh (Most High) will remove it. Then there will be a Khilāfah upon the Methodology of the Prophethood as long as Allāh wishes it to remain, then Allāh (Most High) will remove it when He wishes to remove it. Then there will be distressful kingships which will remain as long as Allāh wishes them to*

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father of Ya'qūb, i.e. Isrā'īl] would attack it. When they would land there, they will neither fight with weapons nor will they shower arrows, but they will only say: *"None has the right to be worshipped except Allāh, and Allāh is the Greatest!"* - and that one side of the city will fall. {*Thawr* (one of the narrators) said: I think that he said: The part by the side of the ocean.} Then they would say for the second time: *"None has the right to be worshipped except Allāh, and Allāh is the Greatest!"* – and then the second side will also fall, and they would say: *"None has the right to be worshipped except Allāh, and Allāh is the Greatest!"*- And the gates will be opened for them and they would enter therein and they would begin collecting spoils of war – then, while they are distributing them amongst themselves, a noise would be heard and it would be said: "Verily, the Dajjāl has come." And thus they would leave everything there and would turn to him."

And if the seeker of the truth looks at this *Hadīth* about the Conquest of Constantinople, he will clearly see that the Dajjāl will come soon afterwards, while the spoils of war are still being distributed – and this did not happen after Muhammad Al-Fātih conquered Constantine, nor has it happened till this day of ours today. So to claim that the Prophesized Conquest of Constantinople was fulfilled by Muhammad Al-Fātih Al-'Uthmānī – as *Shaykh* Al-Albānī has claimed – then this is an erroneous conclusion which is not in harmony with the *Hadīths* on the topic. And amongst those who stated that the Prophesized Conquest of Constantinople was not fulfilled by Muhammad Al-Fātih, is *Shaykh* Ahmad Shākir, *Shaykh* Abū Basīr, *Shaykh* 'Abdullāh As-Sa'd, and many others. And Allāh knows best.

remain, then Allāh (Most High) will remove them when He wishes to remove them. Then there will be tyrannical kingships which will remain as long as Allāh wishes them to remain, then Allāh (Most High) will remove them when He wishes to remove them. Then there will be a Khilāfah upon the Methodology of the Prophethood." (Then he remained silent.) Huthayfah mentioned it in *Marfū'* form, and *Al-Hāfith* Al-'Irāqī narrated it from the path of Ahmad and said, "This is an authentic *Hadīth*." [309]

This, and from the glad tidings about the return of strength and power to the Muslims and their harvesting the Earth - a harvesting that will assist in reaching the goal, and it notifies that they have a brilliant future, even in terms of economy and agriculture, is:

6. The Messenger of Allāh **صلى ا عليه وسلم** said, *"The Hour will not be established until the land of the 'Arabs returns to being pastures and rivers."* – Narrated by Muslim, Ahmad and Al-Hākim, from the *Hadīth* of Abū Hurayrah.

And the glad tidings from this *Hadīth* have already begun to take place in some areas within the Arabian Peninsula, due to what Allāh has showered upon it from resources, blessings, and (agricultural) watering equipment, which extracts an abundance of water from beneath the desert ground. This, and from that which must be known at this point, is that Prophet's statement, *"There will not come upon you a time, except that which comes after it, is worse than it, until you meet your Lord."* – Narrated by Al-Bukhārī in "*Al-Fitan*", from the *Hadīth* of Anas, in *Marfū'* form. So this *Hadīth* must be understood in the light of the aforementioned *Hadīths*, as well as others, such as the *Hadīths* of *Al-Mahdī* and the descending of 'Īsā, **عليه السلام** , because they indicate that this *Hadīth* is not upon its generality, rather it is from the general which has been restricted. So it is not allowed to let the people understand it upon its

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[309] **Trans. Note:** Refer to "*Mahajjat Al-Qurb"* (Pg. 175) of *Al-Hāfith* Al-'Irāqī. Also refer to Al-Albānī's "*As-Silsilah As-Sahīhah*" (5), and his notes on "*Mishkāt Al-Masābīh*" (5,306), where he graded it as "*Hasan*".

generality, because they will fall into the despair which is not befitting for the Believer to carry:

إنهُ لا يَيأسُ مِن روْحِ اللّهِ إلا القوْمُ الكافِرُونَ

Certainly no one despairs of Allāh's Mercy, except the people who disbelieve. [310]

I ask Allāh to make us from the true Believers in Him…

– Muhammad Nāsir Ad-Dīn Al-Albānī [311]

I say: And this is the last of what we will mention concerning the difference between the *Bay'ahs* of the groups and the *Bay'ah* of the *Imām* of the Muslims.

Seventhly: The Ruling Upon the One Who Breaks the Covenant (*'Ahd*)

Breaking the covenant – whatever it is – is a major sin (*Kabīrah*) from amongst the major sins (*Al-Kabā'ir*), due to the Divine Threat of Punishment narrated regarding that. And from those narrations, are:

1. Allāh, the Most High's, statement:

وَالذِينَ يَنقُضُونَ عَهْدَ اللّهِ مِن بَعْدِ مِيثَاقِهِ وَيَقْطَعُونَ مَآ أَمَرَ اللّهُ بِهِ أن يُوصَلَ وَيُفْسِدُونَ فِي الأَرْضِ أوْلَئِكَ لَهُمُ اللعْنَةُ وَلَهُمْ سُوءُ الدار

And those who break the covenant of Allāh, after its ratification, and sever that which Allāh has commanded to be joined (i.e. they sever the bond of kinship and are not good to their relatives), and work mischief in the land, on them is the curse (i.e. they will be

[310] **Trans. Note:** Yūsuf, 87

[311] From the introduction to the book "*Al-Hukm Al-Jadīrah Bil-Ithā'ah Min Qawl An-Nabī, Sallallāhu 'Alayhī Wa-Sallam*: ***'Bu'ithtu Bis-Sayfī Bayna Yaday As-Sā'ah'***", by Ibn Rajab Al-Hanbalī, published by "Dār Al-Marjān".

far away from Allāh's Mercy); And for them is the unhappy (evil) home (i.e. Hell). [312]

2. His, the Most High's, statement:

يَا أيهَا الذِينَ آمَنُوا لِمَ تَقُولُونَ مَا لَا تَفْعَلُونَ كَبُرَ مَقْتًا عِندَ اللهِ أن تَقُولُوا مَا لَا تَفْعَلُونَ

O you who believe! Why do you say that which you do not do? Most hateful it is with Allah that you say that which you do not do. [313]

So whoever forms a covenant (*'Ahd*) and does not fulfill (it), then he is from those who say that which they do not do.

3. The Messenger of Allāh **صلى ا عليه وسلم** said, *"(There are) four things, which whoever possesses them within him, then he is a pure hypocrite (Munāfiq) and whoever has part of them within him, then there is a part of hypocrisy (Nifāq) in him, until he leaves it. (These are): when he is entrusted, he violates it (i.e. the trust). And when he speaks, he lies. And when he undertakes a covenant ('Ahd), he breaks it. And when he disputes, he acts in an offensive, insulting manner."* [314]

And Ibn Rajab Al-Hanbalī said, in the explanation of this *Hadīth*, "And the treachery (*Ghadr*) is *Harām* in every covenant between the Muslim and someone else, even if the one who was covenanted with (*Mu'āhad)* is a disbeliever (*kāfir*). And due to this, there is, in the *Hadīth* of 'Abdullāh Ibn 'Amr, from the Prophet **صلى ا عليه وسلم**, *'Whoever kills someone who has a covenant (Mu'āhad) unjustly, he will not smell the fragrance of Paradise, although its fragrance can be found (i.e. smelled) from a distance of forty years.'* – Narrated by Al-Bukhārī. And Allāh, the Most High, ordered in His Book, the fulfillment of the covenants of the *mushrikīn,* as long as they (also) remain (fulfilling) upon their covenants, while not breaking anything from

[312] *Ar-Ra'd*, 25

[313] **Trans. Note:** *As-Saff*, 2-3

[314] **Trans. Note:** Also narrated by Muslim, At-Tirmithī, Abū Dāwūd and Ahmad with similar phrasings, all from 'Abdullāh Ibn 'Amr, may Allāh be pleased with them.

them. As for the covenants of the Muslims amongst themselves – fulfilling them is even more binding, and breaking them is an even greater sin. And from the greatest of them, is the covenant of the *Imām* with those who follow him and are satisfied with him (as their *Imām*). And in the two "*Sahīhs*", from Abū Hurayrah, from the Prophet صلى ا عليه وسلم, who said, '*(There are) three types of people whom Allāh will not speak to on the Day of Resurrection, nor will He purify them, and they shall have a painful torment…*' Then he mentioned from them, '*… a man who gives Bay'ah to an Imām; he does not give him Bay'ah except for some worldly gain (Dunyā). So if he (i.e. the Imām) gives him what he desires, he fulfills it (i.e. the Bay'ah), otherwise, he does not fulfill it.*' And included in the covenants, which must be fulfilled and about which the treachery (*Ghadr*) is *Harām* in, are all the contracts (*'Uqūd*) of the Muslims amongst themselves, if they approved of them, from business transactions, marriages and other than these from the contracts which are bound, which are obligatory to fulfill; And likewise, (it is forbidden to break the covenant) from that which is obligatory to fulfill to Him, Glorified is He, from that which the slave forms a covenant upon with his Lord, of the vow (*Nathr*) to do something (if something happens or is done), and the likes of it." **[315]**

The aforementioned words cover all covenants, and from them is the *Bay'ah* to the *Imām* of the Muslims, except that breaking this *Bay'ah* has a specific Divine Threat of Punishment narrated concerning it, due to its great danger. Just as Ibn Rajab said in his aforementioned words, "As for the covenants of the Muslims amongst themselves – fulfilling them is even more binding, and breaking them is an even greater sin. And from the greatest of them, is the covenant of the *Imām* with those who follow him and are satisfied with him (as their *Imām*)."

And *Imām* Al-Bukhārī (may Allāh be merciful to him) specified several chapters in his "*Sahīh*" concerning that which relates to the fulfillment of the covenants and the sin of the breaker (of the covenant) and the disloyal. I shall mention them generally and I

[315] "*Jāmi' Al-'Ulūm Wal-Hikam*" (Pg. 376-377)

advise the brother reader to review them in the "*Sahīh*", as well as its explanation, because they contain great benefits.

A. From them, is in "The Book of Witnesses" – "Chapter: Those Who Are Ordered to Fulfill the Promise (*Wa'd*)." - "*Fat'h Al-Bārī*" (5/289)

B. And in "The Book of *Jizyah* and Delaying the Hostilities" – "Chapter: The Virtues of Fulfilling the Covenants" and "Chapter: What Has Been Warned Against, Concerning Treachery" and "Chapter: The Sin of the One Who Forms a Covenant and Then Betrays It" and "Chapter: The Sin of the One Who Betrays a Righteous Person (*Birr*) or (Even) a Wicked Person (*Fājir*)." - "*Fat'h Al-Bārī*" (6/276 – 283)

C. And in "The Book of Oaths and Vows" – "Chapter: The Covenant of Allāh, Glorified is He." - "*Fat'h Al-Bārī*" (11/544); and "Chapter: The Statement of Allāh, Glorified is He: **Verily, those who purchase a small gain at the cost of Allāh's Covenant and their oaths…**" - "*Fat'h Al-Bārī*" (11/577)

However, as for the specific Divine Threat of Punishment which is narrated concerning the breaking of the *Bay'ah* of the *Imām* of the Muslims, then from that, is:

- The *Hadīth* of Ibn 'Umar, in *Marfū'* form, *"Whoever dies while he does not have a Bay'ah upon his neck - he dies a death of Jāhiliyyah (pre-Islāmic Ignorance)."* – narrated by Muslim.

- The *Hadīth* of Ibn 'Abbās, in *Marfū'* form, *"Whoever hates something from his Amīr, then he should be patient, because whoever departs (the distance of) one hand-span away from the Sultān, then he dies a death of Jāhiliyyah."* – Agreed upon.

- And in another narration from Ibn 'Abbās, also in *Marfū'* form, *"Whoever sees something from his Amīr, which he hates, then he should be patient with him - because whoever leaves the Jamā'ah, (even) one hand-span, and then dies, (does not do so) except that he dies a death of Jāhiliyyah."* – Agreed upon.

Ibn Hajar said, in the explanation of this *Hadīth*, "His statement, *'Whoever hates something from his Amīr, then he should be patient…'*; he added in the second narration, *'…with him…'*. His statement, *'… because whoever departs away from the Sultān…'*, in other words, from the obedience of the *Sultān*. In the narration of Muslim, it was worded, *'… because whoever departs away from the Sultān…'* And in the second narration, *'… whoever leaves the Jamā'ah…'* and his statement, *'… one hand-span…'* [*Shibran*] with the *Kasrah* on the first (letter) and the *Sukūn* on the second (letter). And this is tantamount to the disobedience to the *Sultān* and waging war against him. Ibn Abī Hamzah said, 'The "*leaving*", means striving to break the contract (*'Aqd*) of *Bay'ah* which had taken place with that *Amīr*, even (if the violation is) of the most minute detail. So he described it with the amount of the hand-span, because doing that (i.e. departing from the *Sultān*/leaving the *Jamā'ah*), leads to bloodshed without a just cause.' His statement, *'… he dies a death of Jāhiliyyah.'* and in the other narration, *'… and then dies, (does not do so) except that he dies a death of Jāhiliyyah.'* And in a narration of Muslim, *'… then his death is a death of Jāhiliyyah.'* And with him (i.e. Muslim), from the *Hadīth* of Ibn 'Umar, which he narrated in *Marfū'* form, *'… whoever withdraws one hand from obedience, he will meet Allāh while having no argument (Hujjah) in his favor; and whoever dies while he does not have a Bay'ah upon his neck - he dies a death of Jāhiliyyah.'* Al-Karamānī said, 'And the exception here, takes the meaning of an objection based upon an enquiry, [316] in other words, no one leaves the *Jamā'ah* except that this happens to him. Or it could be that the phrase '… does not…' was omitted (from the phrasing). So it is to

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[316] **Trans Note:** "An objection in the form of an enquiry," is our translation of "*Istifhām Inkārī*", which refers to a form of rhetorical question one might ask to make a point about how bad something is and to therefore object to it. For example, in English someone might say, "You're not actually considering doing that, are you?" This phrase does not necessarily mean that the questioner does not know the answer; rather it is a question that one might ask to make the point that this particular course of action (whatever it is) is inadvisable. Likewise, a person might say, "Are you kidding?" knowing that the person, to whom he is speaking, is quite serious. However, he phrases this as a rhetorical question in order to emphasize the point that he does not approve of what has been suggested. In this case, it is as if the author is suggesting that the *Hadīth* implies, "Would anyone leave the *Jamā'ah* unless he were in a state of *Jāhiliyyah*?"

be assumed that it is in its proper place (when understanding it). **[317]** Or it could be that the phrase *'… except that…'* is an extraneous wording or that it is a conjunction, according to the opinion of the people of *Al-Kūfah*, and what is intended by *'… a death [Mītah] of Jāhiliyyah,'* which has a *Kasrah* on the *Mīm*, refers to the state of death – like the death of the People of *Jāhiliyyah* – upon misguidance, while not having an *Imām* that they obey - because they used to be ignorant of that. But it does not mean that he dies as a disbeliever (*kāfir*), rather he dies as a disobedient sinner (*'Āsī*). And it could be that the resemblance is outward, and that it means that he dies a death like the death of a person of *Jāhiliyyah*, even if he did not die as a Person of *Jāhiliyyah*. Or it could be that that was narrated in order to avoid and steer people clear of it and that its apparent meaning (i.e. death upon *Jāhiliyyah*) was not intended. But what supports (the opinion) that what is intended is the actual resemblance is his saying in the other *Hadīth*, *'Whoever leaves the Jamā'ah, (even) one hand-span, then it is as if he removed the noose of Islām from his neck.'* – Narrated by At-Tirmithī, Ibn Kuzaymah and Ibn Hibbān, and it was authenticated from the *Hadīth* of Al-Hārith Ibn Al-Hārith Al-Ash'arī." **[318]**

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[317] **Trans Note: "**Assumed that it is in its proper place," is our translation of "*Muqaddarah*", which refers to instances in grammar whereby certain words are omitted from a phrase, yet the meaning is understood. For example, in English someone might say to another, 'Morning,' as a greeting. It is understood that this person is actually saying, "Good morning," or "Good morning to you." So even though certain additional words were absent from this phrase, its meaning is understood in the context of the dialogue.

[318] "*Fat'h Al-Bārī*" (13/6-7)

Trans. Note: As for this specific phrasing, Ash-Shawkānī mentioned that in it there is Julayd Ibn Da'laj, and he has been spoken about, and Ibn Hajar mentioned the same thing, except from Ibn 'Abbās instead of Al-Hārith, and he said Khulayd instead of Julayd. Despite this, there are many similar phrasings that have been authenticated, such as, *"Whoever leaves the Jamā'ah, the amount of a hand-span, then he has removed the noose of Islām from his neck."* From Abū Tharr Al-Ghifārī (may Allāh be pleased with him). Authenticated by Ibn Al-Mulqin in "*Al-Badr Al-Munīr*" (8/527). And a similar, longer phrasing authenticated by Ibn Al-Qayyim in "*I'lām Al-Muwaqqi'īn*" (1/208), and another phrasing in "*Al-Furūsiyyah*" (Pg. 269).

So these are some of the texts narrated about the sin of the one who breaks the *Bay'ah* of the *Imām* of the Muslims. And the meaning of *"… he dies a death of Jāhiliyyah,"*- in other words, upon sin, as Ibn Hajar said, "But it does not mean that he dies as a disbeliever (*kāfir*), rather he dies as a disobedient sinner (*'Āsī*)." And that is because *"Al-Jāhiliyyah"* is a homonym [a word which carries multiple meanings], which could refer to more than one meaning. As it could refer to the sins, just like in the Prophet **صلى ا عليه وسلم**'s statement to Abū Tharr, *"Verily, you are a man with Jāhiliyyah in you."* And Al-Bukhārī narrated this *Hadīth* within "The Book of *Īmān*" from his *Sahīh*, in the "Chapter: The Sins are From the Traits of *Jāhiliyyah* And the One Who Commits Them Does Not Disbelieve Except Through *Shirk*." And the meaning of *"Jāhiliyyah"* could be *kufr* like in the *Hadīth* of Huthayfah, "Verily, we were in Ignorance (*Jāhiliyyah*) and evil and then Allāh came to us with this goodness (*Khayr*), which we are (presently) upon …" – Agreed upon, and the phrasing is that of Muslim. And there must be an indicator from within the same text or an external text, which would clarify the intended meaning of the homonym. But this is not the space to digress into the details of that.

Point of Notice: It was reported in a narration of the aforementioned *Hadīth* of Ibn 'Abbās; *"… because whoever departs (the distance of) one hand-span away from the Sultān, then he dies a death of Jāhiliyyah."* And in the other narration, *"… because whoever leaves the Jamā'ah, (even) one hand-span, and then dies, (does not do so) except that he dies a death of Jāhiliyyah."* So the meaning of the word *"Jamā'ah"* in the second narration, is that *Jamā'ah* of the Muslims which obeys the *Sultān*, and its intended meaning is not just any *Jamā'ah*. And that which brings us to this conclusion, is two matters:

The first: The obligation of holding the unrestricted, in the second narration, *"… the Jamā'ah…"* upon the restricted, in the first narration, *"… the Sultān…"* And that is due to the sharing of the same ruling and cause [319] in both narrations. So the intended

[319] **Trans. Note:** The ruling, being mentioned in each *Hadīth* is that the one who commits this action dies a death of *Jāhiliyyah*. The cause, being mentioned in each *Hadīth* is the splitting/rebelling/departing from the *Imām* or the *Jamā'ah*. What

meaning by the (word) *"Jamā'ah"*, is the uniting of the people upon the (recognition and obedience) of the *Sultān*. And this is what is understood from the explanation of Ibn Hajar, concerning the *Hadīth*, which has preceded. And this understanding is supported by the *Hadīths* of 'Arjafah, which are in Muslim, regarding the one who rebels against the *Imām* of the Muslims. As the Messenger of Allāh **صلى ا عليه وسلم** described him as sowing dissension amongst the Muslims and dividing their *Jamā'ah*. And this means that the rebellion against the *Sultān* is a rebellion against the *Jamā'ah* of the Muslims.

From 'Arjafah, that the Messenger of Allāh **صلى ا عليه وسلم** said, *"There will be trials and (more) trials. So whoever wishes to divide the matter of this nation (Ummah), while it is together; then strike him with the sword, no matter who he is."* And clearer than this is the following narration from 'Arjafah as well, that he heard the Messenger of Allāh **صلى ا عليه وسلم** saying, *"Whoever comes to you, while your matter is together upon one man, desiring to sow dissension or divide your Jamā'ah - then kill him."* – Narrated by Muslim.

The second: The *Lām* in "*Al-Jamā'ah*" (i.e. The *Jamā'ah*) is for *Al-'Ahdiyyah*, and not for the entire category (*Al-Jins*) [320] . In other words, this Divine Threat of Punishment in the *Hadīth* is concerning the one who rebels against a specific *Jamā'ah*, and not just any *Jamā'ah*. So what is the indicator, which was narrated in the phrasing of the *Hadīth*, which strengthens this (opinion)? It is the Prophet **صلى ا عليه وسلم**'s statement, *"Whoever sees something from his Amīr, which he hates, then he should be patient…"* - the attribution of *"Amīr"* to the pronoun (i.e. "*his" Amīr*), while the Prophet **صلى ا عليه وسلم** is addressing the general population of the Muslims, means that he (i.e. this "*Amīr*") is the *Amīr* of the *Jamā'ah* of the Muslims.

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this means is that the fact that each *Hadīth* is mentioning the exact same ruling, regarding the exact same cause, which is the action that brought on this ruling, makes us more sure and more willing to hold the unrestrictedness of one *Hadīth* upon the restrictedness of the other *Hadīth*.

320 **Trans. Note:** For a brief explanation of this linguistic rule, refer footnote #53.

And he is the *Sultān*, as the Prophet labeled him in the first narration. So the *Jamā'ah* which is intended (in the *Hadīth*) is the *Jamā'ah* of the Muslims, which is obedient to the *Sultān*, as in the *Hadīth* of Huthayfah, "*Adhere to the group (Jamā'ah) of the Muslims, and their Imām.*" – Agreed upon.

And from the clearest texts about this issue, is the *Hadīth* of Abū Hurayrah, in *Marfū'* form, *"Whoever departs from the obedience and leaves the Jamā'ah, and then dies - he dies a death of Jāhiliyyah."* – Narrated by Muslim. As-San'ānī said, "'*… from the obedience…*' in other words, the obedience of the *Khalīfah*, upon whom the (Muslims) have united. And he said, '*… and leaves the Jamā'ah…*' in other words, leaves the *Jamā'ah*, which agreed upon the obedience of an *Imām* with whom their affairs were organized, and their word became unified upon, and who safeguarded them from their enemy." [321]

And by making this note, I hope that no group (*Jamā'ah*) from amongst the *Islāmic* groups (*Jamā'āt*) would use – as is commonplace in reality – this *Hadīth* in an improper place, such that it would (be used to) portray a person who leaves it (i.e. that particular *Jamā'ah*) dying a death of *Jāhiliyyah*. They say to the one who leaves them rightfully or mistakenly, "You left the *Jamā'ah*, while the Messenger **صلى ا عليه وسلم** said: *… whoever leaves the Jamā'ah, (even) one hand-span, and then dies, (does not do so) except that he dies a death of Jāhiliyyah."* So this is placing the texts in an improper place (i.e. context). And the "*Jamā'ah*" in this *Hadīth* is the *Jamā'ah* of the Muslims who are obedient to a *Sharī'ah*-based *Sultān*, and not just any *Jamā'ah* - as its clarification has preceded. It is true that Ibn Al-Athīr (may Allāh be merciful to him) held the meaning of *"… the Jamā'ah…"* upon its general meaning, as he considered the *Lām* in it, to refer to the general category (*Jins*). So it is correct at this time (i.e. context) to hold it upon any *Jamā'ah*, as he (may Allāh be merciful to him) said, "*'Whoever leaves the Jamā'ah, then his death is (one of) Jāhiliyyah.'* This refers to every *Jamā'ah* that has formed a contract (*'Aqd)* that complies with the Book and the *Sunnah*. So it is not

[321] "*Subul As-Salām*" (3/1,228), "Chapter: Fighting the People of Rebellion."

allowed for anyone to leave them in that contract (*'Aqd)*. Then if he opposes them in that, he is deserving of the Divine Threat of Punishment. And the meaning of his statement, *'…his death is (one of) Jāhiliyyah.'* In other words, he dies upon that which the People of *Jāhiliyyah* died upon, of misguidance and ignorance." [322]

But the matter is not as he (may Allāh be merciful to him) said, which was that this specific Divine Threat of Punishment is held upon anyone who leaves any *Jamā'ah* which has united together to perform an act of obedience. Rather, what is correct, *In Shā' Allāh Ta'āla*, is what I have established above, which is that the "*Jamā'ah*" in this *Hadīth* is the *Jamā'ah* of the Muslims – who are obedient to the *Sultān* – and no other (*Jamā'ah*). But this does not mean that whoever breaks his covenant (*'Ahd*) with a *Jamā'ah* which is upon the Truth, is not deserving of anything from the Divine Threat of Punishment. Rather, what is correct is that the condemnation and Divine Threat of Punishment, which has been narrated generally about the breaking of covenants, is held upon him, as I mentioned in the beginning of this subject.

And the groups who apply this *Hadīth* upon themselves: some of them have misinterpreted one word from the *Hadīth,* and some of them have misinterpreted two words.

So those who misinterpreted one word from it, they misinterpreted the word "*Al-Jamā'ah*" in that it means any *Jamā'ah*. And based upon that, it would include their *Jamā'ah*; so whoever opposes them, the Divine Threat of Punishment which was mentioned, is held upon him. And the refutation of this has already preceded.

And as for the ones who misinterpreted two words - they (not only) misinterpreted the word "*Al-Jamā'ah*", as has passed, (but also) they misinterpreted the word "*Jāhiliyyah*". So they say that its meaning is disbelief (*kufr*). And due to that, they issue a 'declaration of disbelief' (*Takfīr*) upon those who oppose their *Jamā'ah,* as well as the permissibility of spilling their blood. So they consider

[322] "*An-Nihāyah Fī Gharīb Al-Hadīth*" (3/439), Subject: "*Farraq*"

themselves as "*The Jamā'ah* of the Muslims," and that whosoever opposes them, he becomes an apostate (*murtadd*) - and fighting against the apostate is prioritized ahead of fighting against the original disbeliever (*Al-Kāfir Al-Aslī*). And this is the creed of the *Khawārij*, which is indeed the creed of some of the groups; So they permit (killing and plundering from) those who oppose them, due to their "apostasy", according to them, that which they don't permit (the killing and plundering) from the original disbeliever (*Al-Kāfir Al-Aslī*). Just as the Prophet **صلى ا عليه وسلم** said about them; *"They kill the People of Islām, and let go of the People of the Idols."* [323]

And the truth is that their mistake came as a result of their holding a homonym upon only one of its (possible) meanings, without a clarifying indicator (to restrict it to only one meaning), because the word "*Jāhiliyyah*" could refer to disbelief (*kufr*), like in the *Hadīth* of Huthayfah, "Verily, we were in ignorance (*Jāhiliyyah*) and evil and then Allāh came to us with this goodness (*Khayr*), which we are (presently) upon…" [324]. So the meaning of "*Jāhiliyyah*" in the *Hadīth* of Huthayfah, is the disbelief (*kufr*) prior to *Islām*. And the same word can mean acts of disobedience (i.e. sins), like in the statement of the Prophet **صلى ا عليه وسلم** to Abū Tharr, *"Verily, you are a man with Jāhiliyyah in you."* – Narrated by Al-Bukhārī. And Abū Tharr was who he was (i.e. a Noble Companion), may Allāh be pleased with him. So there must be an indicator, either from the text itself or from other than it, which clarifies which of the two or more meanings is intended by the word.

And in the *Hadīth* (meaning), *"Whoever leaves the Jamā'ah, then dies, he dies a death of Jāhiliyyah"*, we said that this "*Jamā'ah*" is the one which is obedient to the *Sultān*. And we say that the "*Jāhiliyyah*"

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[323] Refer to "*Majmū' Al-Fatāwā*" (3/355).
Trans. Note: Refer to *"Thilāl Al-Jannah Takhrīj As-Sunnah"* (910) by Ibn Abī 'Āsim, classified as "*Sahīh*" by *Shaykh* Nāsir Al-Albānī. Also narrated similarly by Al-Bukhārī in "*Kitāb Al-Anbiyā'*" (3,166). Also narrated by Muslim, An-Nasā'ī, Abū Dāwūd and Ahmad. All from Abū Sa'īd Al-Khudrī, may Alāh be pleased with him.

[324] Agreed upon, and the phrasing is that of Muslim.

here means disobedience (i.e. sins), and it does not mean the disbelief (*kufr*), as it has passed in Ibn Hajar's explanation of it.

And we have another evidence, and it is that the *Bughāt* (i.e. the rebels against the proper Muslim authority) rebel against the obedience to the *Imām*, yet Allāh called them Believers, as He, the Most High, said:

وَإِن طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلِحُوا بَيْنَهُمَا فَإِن بَغَتْ إِحْدَاهُمَا عَلَى الْأُخْرَى فَقَاتِلُوا الَّتِي تَبْغِي حَتَّى تَفِيءَ إِلَى أَمْرِ اللَّهِ

And if two parties among the Believers fall to fighting, then make peace between them both, but if one of them rebels against the other, then fight you (all) against the one that which rebels till it complies with the Command of Allāh…

– until His statement:

إِنَّمَا الْمُؤْمِنُونَ إِخْوَةٌ

Verily, the Believers are nothing else than brothers. [325]

So Allāh labeled them "Believers" despite their rebellion and fighting. So they rebelled against the *Jamā'ah* of the Muslims, yet they did not commit *kufr*.

And we have a third evidence, and it is that Ibn 'Umar – the narrator of the *Hadīth*, *"Whoever dies while he does not have a Bay'ah upon his neck - he dies a death of Jāhiliyyah."* Ibn Hajar mentioned, in the explanation of the *Hadīth* (describing) the *Bay'ah* of Ibn 'Umar to 'Abdul-Malik Ibn Marwān, saying, "And 'Abdullāh Ibn 'Umar, at that time, used to refuse giving *Bay'ah* to either Ibn Az-Zubayr or 'Abdul-Malik, just as he used to refuse to give *Bay'ah* to either 'Alī or Mu'āwiyah. Then he (finally) gave *Bay'ah* to Mu'āwiyah when he formed the *Sulh* with Al-Hasan, the son of 'Alī, and the people united upon him. And he gave *Bay'ah* to Yazīd, after the death of Mu'āwiyah, due to the uniting of the people upon him. Then (in

[325] *Al-Hujurāt*, 9-10

this same way) he refused to give *Bay'ah* to anyone during the times of dispute, until Ibn Az-Zubayr was killed and the kingship went completely to 'Abdul-Malik. So he (finally) gave *Bay'ah* to him at that time." [326]

I say: And despite this stance of Ibn 'Umar (may Allāh be pleased with him) – even though the majority of the Companions (*Sahābah*), the *Tābi'īn* and *Ahl As-Sunnah* went to (the opinion of) the obligation of supporting the rightful (authority) and fighting against the rebel – while not attributing errors to anyone of the Companions (*Sahābah*), from those who left the fighting against the rebels (*Bughāt*), due to them applying their best deductive reasoning (*Ijtihād*) in this stance of theirs. And the details of this have passed at the end of the third chapter. Yet, the proof (*Shāhid*) from the action of Ibn 'Umar – since he was the narrator of the *Hadīth*, *"Whoever dies while he does not have a Bay'ah upon his neck…"* – is that if the "*Jāhiliyyah*" actually meant disbelief (*kufr*), there would be no room for him except to give *Bay'ah* to whichever of the two was the closest to the Truth - but he had a *Ta'wīl* (interpretation justifying) his leaving of the *Bay'ah*. And the (*Ta'wīl* which he had justifying his leaving the *Bay'ah*) was (that there was) disagreement of the people (about Ibn Az-Zubayr and 'Abdul-Malik).

So this, among other things, indicates that the "*Jāhiliyyah*" in the *Hadīth "Whoever leaves the Jamā'ah…"* - means disobedience (i.e. sins), and not disbelief (*kufr*) as some of the groups (*Jamā'āt*) have taken to that (opinion).

And there are those who issue the 'declaration of disbelief' (*Takfīr*) upon the one who opposed their *Jamā'ah*, due to misinterpretation of the *Hadīth* of Ibn Mas'ūd, which is in *Marfū'* form, "*The blood of a Muslim person is not permissible (Halāl) except in one of three (scenarios); the fornicator who has been married, and a soul for a soul (i.e. retaliatory execution), and the one who abandons his Religion (Dīn), the leaver of the Jamā'ah."* – Agreed upon. And the invalid interpretation is that they made *"… the one who abandons his Religion…"* into a trait

[326] "*Fat'h Al-Bārī*" (13/195)

of *"… the leaver of the Jamā'ah,"* along with their assumption that their *Jamā'ah* is the *"Jamā'ah of the Muslims"*. So (according to them), the one who leaves them (i.e. their *Jamā'ah*) would be the one who abandons his Religion.

But what is correct is that *"… the leaver of the Jamā'ah…"* is a trait of *"…the one who abandons his Religion…"* and not the other way around. And that is because whoever has become an apostate from his Religion, then he has left the *Jamā'ah* through his leaving of the bond which unites him with the Muslims – that being the bond of *Islām* and *Īmān*. And this was what Ibn Hajar mentioned in the explanation of the *Hadīth* of Ibn Mas'ūd, *"The blood of a Muslim person is not permitted…"* Ibn Hajar said, "And what is meant by the *Jamā'ah*, is the *Jamā'ah* of the Muslims. In other words, he leaves them or abandons them by committing apostasy. So it is a description of the abandoner or the leaver, not a separate description, otherwise the categories (in the *Hadīth*) would have been four (instead of three)." [327]

I say: And due to that, it can be said that everyone who leaves his Religion (*Dīn*) – the *murtadd* – then he is (also) an abandoner of the *Jamā'ah*; yet not everyone who leaves the *Jamā'ah* is an abandoner of his Religion (*Dīn*) – like the rebel (*Baghī*). And other narrations of the same *Hadīth* have been reported without the mentioning of the phrase *"…the Jamā'ah,"* such as the narration of At-Tirmithī, from 'Uthmān Ibn 'Affān (may Allāh be pleased with him), *"The blood of a Muslim person is not permissible (Halāl) except in one of three (scenarios); a man who disbelieves after his Islām, or who fornicates after his protection (i.e. his marriage), or kills a soul without a soul (i.e. while not being a retaliatory execution)."* [328] So this narration clarifies that what was intended in the first narration is the apostate.

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327 "*Fat'h Al-Bārī*" (12/201-202)

328 **Trans. Note**: Narrated by At-Tirmithī with a similar phrasing, as well as An-Nasā'ī, and Abū Dāwūd with similar phrasings without mention of the *Jamā'ah*. Also, similarly by Ahmad, from 'Ā'ishah (may Allāh be pleased with her). Many of these narrations were authenticated, look to "*Al-Muhallā*" by Ibn Hazm (11/100) and (11/303). "*Al-Badr Al-Munīr*" by Ibn Al-Mulqin, (8/344). And also the *Tahqīq* of "*Musnad Ahmad*" by Ahmad Shākir (1/216) and (1/247), as well as other places within it.

A Follow Up Point: It must not be understood from my aforementioned words, that when the phrase "*Al-Jamā'ah*" is narrated in any *Hadīth*, that it necessarily refers to the *Jamā'ah* of the Muslims who are obedient to the *Khalīfah* - for verily, the issue is not like that. This is because "*Al-Jamā'ah*" is a homonym, which is used with multiple meanings, the meaning of which becomes known through indicators from the same text or from other texts. And due to that, the meaning of "*Al-Jamā'ah*" in some *Hadīths* is held upon (the meaning of) the "*Jamā'ah* of the Muslims who are obedient to the *Sultān*", due to the indicator which is present, and it is obligatory - whenever the ruling (*Hukm*) and the reason (*Sabab*) are the same in both (texts) - to hold the unrestricted (phrasing) upon the restricted (phrasing). However, "*Al-Jamā'ah*" has other meanings, (and) here is not the place for going into its detailed explanation; however, there is no harm in pointing to its (possible) meanings in a general manner.

Ar-Rāghib Al-Asfahānī said, "*Jama'a* (to unite): 'gathering' is to bring together something by moving one of its parts closer to another. It is said, 'I put it together (*Jama'atuhu*), so it was assembled…" – until he said – "… and *Majmū'* (a gathering) can be called a *Jam*' (union), and *Jamī*' (collection), and *Jamā'ah* (group)." **[329]**

And the "*Al-Jamā'ah*", in this phrasing, has not been narrated in the *Qur'ān* - and is only narrated in the *Hadīth*, with two meanings:

The First: The linguistic meaning of the word; in other words, the gathering, which is opposite of division, and it is used for two or more, or three or more, (based) upon difference between the Scholars of Fundamentals (*Usūliyyīn*) and the Scholars of Grammar (*Nahwiyyīn*). And (an example) of this usage, is the statement of the Prophet **صلى ا عليه وسلم**, *"Salāt Al-Jamā'ah (prayer made in congregation) is superior to the Salāt of an individual by twenty-seven levels (i.e. times)."* – Agreed upon. So what is intended by "*Al-Jamā'ah*", is the

[329] "*Al-Mufradāt*", by Ar-Rāghib

number; and Al-Bukhārī said, "Two or more is a *Jamā'ah*", and this was narrated in *Marfū'* form. [330]

The Second: The technical meaning of the word; and one of two things is intended by it, and they are (presented) in order of their importance:

a) "*Al-Jamā'ah*", meaning the Truth and Religion as in the *Hadīth* of the (astray) sects, *"All of them are in the Fire except one, and that is the group (Jamā'ah)."* and the explanation has preceded. So "*Al-Jamā'ah*" here is the Truth, and the most deserving people of this (description) is the Prophet صلى ا عليه وسلم and his Companions. And due to that, in the other narration of this *Hadīth,* (there is), *"… that which I and my Companions are upon."* And from here, Ibn Mas'ūd said, "*Al-Jamā'ah* (The Group) is whatever complies with the Truth, even if you are alone." And "*Al-Jamā'ah*" is also narrated in the meaning of the Followers of the Religion of *Islām*, as in the *Hadīth*, *"… and the one who abandons his Religion (Dīn), the leaver of the Jamā'ah."* And it is also narrated with the meaning of the People of Knowledge and the "People of *Al-Hall Wal-'Aqd*".

b) "*Al-Jamā'ah*" with the meaning of the *Jamā'ah* of the Muslims who are obedient to the *Sultān*, as in the *Hadīth*, *"Whoever sees something from his Amīr, which he hates, then he should be patient with him - because whoever leaves the Jamā'ah, (even) one hand-span, and then dies, (does not do so) except that he dies a death of Jāhiliyyah."* – Agreed upon.

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[330] Look to "*Fat'h Al-Bārī*" (2/142)
Trans. Note: This is narrated by Ibn Mājah from Abū Mūsa Al-Ash'arī (may Allāh be pleased with him). It was declared at least "*Dha'īf*", as was indicated by the author when he said "… *Ruwiya*…", as this is used generally when mentioning a weak narration. It was rejected by Ibn Hazm in "*Usūl Al-Akhām*" (1/421), Al-Bayhaqī in "*As-Sunan Al-Kubra*" (3/69), Ibn Al-Qaysarānī in "*Thakhīrat Al-Huffāth*" (1/233), An-Nawawī in "*Al-Khulāsah*" (2/674) and in "*Al-Majmū' Sharh Al-Muhath'thab*" (4/196) - all with almost exactly the same phrasings, and some from other *Sahābah* besides Abū Mūsa Al-Ash'arī, may Allāh be pleased with them all.

And due to these two terminological meanings, it is obligatory (*Wājib*) upon the Muslim to follow the Truth at all times. And if there is a *Sultān* for the Muslims, it is obligatory (*Wājib*) to follow him - so he is to be obeyed in (whatever is) the Truth and disobeyed in (whatever is) falsehood. And for this reason we have arranged the two terminological meanings this way, as the Truth is put first and is more deserving. And if there is no *Sultān* - like in our present era - the *Jamā'ah* with the first meaning – the Truth and its People – remains obligatory to follow, as it has preceded in the third chapter.

And follow the phrasing of "*Al-Jamā'ah*" in the *Hadīths*; you will find it possible to refer all of them back to the meanings of: "The Number", "The Truth" or "The *Jamā'ah* of the Muslims". As for the contemporary *Islāmic* groups, then from them are those whose portion of these meanings is only (fulfilled) in terms of "The Numbers", and from them are those who are to be included into "*Al-Jamā'ah*" with the meaning of "The Truth", at varying levels.

Eighthly: The Refutation Upon A Doubt Concerning the Covenants

I mentioned at the end of the third chapter of this treatise, the refutation upon the doubts concerning the leadership of the *Islāmic* groups, as it was objected to by Mr. 'Alī Ibn Hasan Ibn 'Abdil-Hamīd – the author of the book "*Al-Bay'ah Bayn As-Sunnah Wal-Bid'ah*". And here I will refute, with the Assistance of Allāh, the Most High, his objection upon the *Bay'ah* which these groups take from their followers, as he objected to the legitimacy of these *Bay'ahs* in the *Sharī'ah*, and he considered them from the *Bid'ahs* (innovations). And by doing that, he wanted to refute a specific group which uses the *Bay'ah* and *As-Sam' Wat-Tā'ah*, to subjugate its followers and to protect its leaders. However, I say that the *Bay'ah* is valid and *As-Sam' Wat-Tā'ah* is valid; and the misuse of what is correct should not cause us to object against it - Rather, the obligation is to object against its misuse.

And we will mention, in what follows, some of what he stated concerning his objection to these *Bay'ahs* - and then I will make a refutation upon him, *In Shā' Allāh Ta'āla*:

- The author claimed on (Pg. 22), "And from that which affirms the illegitimacy of these unusual *Bay'ahs*, which are in excess to the *Bay'ah* of *Amīr Al-Mu'minīn* – even in his absence – is that the scholars (*'Ulamā'*) (may Allāh, the Most High, be merciful upon them) clearly stated that a condition for the *Bay'ah*, is that the People of *Al-Hall Wal-'Aqd* must come together and form the contract (*'Aqd)* of the governance (*Imāmah*) to someone who fulfills all of its conditions."

- And he claimed on (Pg. 23), "From what has passed, we know two important things: 1- The *Bay'ah* is for no other than *Amīr Al-Mu'minīn* exclusively. 2- And the obedience is a product of the *Bay'ah*, which is for him alone, exclusively. So based upon this, all the *Bay'ahs* which are made to any person who is not an *Imām* (i.e. *Khalīfah*), are invalid– whatever type they are – whether they are in the presence of the *Imām* or in his absence, or to one (person) or more." And he claimed in the footnotes of the same page, "So the obligation upon the one who has been deceived by the likes of these innovated *Bay'ahs*, is to abandon them and cancel them, because they are false, (and he must do this) out of devotion and adherence to his Religion."

- And he claimed on (Pg. 32), "Verily, the rest of the words of the earlier People of Knowledge and Jurisprudence (*Fiqh*) was concerning the *Bay'ah* of the Muslim *Khalīfah*, and none of them – in what I have come across – spoke about these unusual *Bay'ahs* which are given to other than the *Imām* of the Muslims. And whoever claims (anything) contrary to that, then it is upon him to bring evidence!!"

- And he claimed on (Pg. 33), "Where were the Predecessors (*Salaf*) of this nation with respect to the likes of these unusual *Bay'ahs*? And is it possible for us to attain anything good, through our intellects and our desires, which we assume was missed by the righteous

ones of this *Ummah*, from the *Salaf*, and the *Imāms* (may Allāh, the Most High's pleasure be upon them all)? And the Chosen Prophet, may the salutations of Allāh and His Peace be upon him, spoke the Truth: *'Whoever innovates in this matter of ours, that which is not from it - then it is rejected.'* So the likes of these unusual *Bay'ahs* – the likes of which are not mentioned in either a Text of the *Qur'ān*, nor in a Prophetic *Hadīth*, nor in an action from the Righteous Predecessors (*As-Salaf As-Sālih*) – (so these) are considered an innovation (*Bid'ah*) and a newly-invented matter (*Muhdathah*)."

❖ And he said on (Pg. 36), "And that which *Shaykh Al-Islām* Ibn Taymiyyah (may Allāh, the Most High, be merciful to him) pointed to in '*Majmū' Al-Fatāwā*' (28/18), that if their intention with this pact (*Ittifāq*), affiliation, and *Bay'ah*, is to help (one another) upon Righteousness (*Birr*) and Piety (*Taqwā*), then Allāh and His Messenger have (already) commanded this, to him and others (as well), (even) without (the presence of) that pact (*Ittifāq*). And if the intention is to work together in sin and transgression, then this has been forbidden by Allāh and His Messenger. So whatever is intended by this from goodness, then in the Command of Allāh and His Messenger is all goodness, and it is not in need of this pact (i.e. covenant). And whatever is intended with this from evil, then Allāh and His Messenger have forbidden it."

❖ And the author claimed on (Pg. 37), in his mentioning of *Shaykh Al-Islā*m Ibn Taymiyyah's (may Allāh be merciful to him) statement, "It is not (permissible) for anyone to form a covenant (*'Ahd*) upon anyone, (agreeing) that he (the follower) will comply with whatever he (the leader) desires. and to ally himself with those who ally themselves with him, and to take as enemies whoever takes him as an enemy. Rather, whoever does this, then he is from the type of Genghis Khan and the likes of him; those who take whoever complies with them as a supportive friend, and those who oppose them as a rebellious enemy."

❖ And the author stated on (Pg. 39-40), "As for it being a covenant (*'Ahd*), then this was not in the methodology (*Manhaj*) of the Righteous Predecessors (*As-Salaf As-Sālih*) - may the pleasure of

Allāh, the Most High, be upon them. Rather, their situation was completely contrary to that, as Abū Nu'aym *Al-Hāfith* Al-Asbahānī narrated in "*Hilyat Al-Awliyā'*" (2/204) with its authentic chain, to Mutarrif Ibn 'Abdillāh Ibn Ash-Shikh'khīr, who said, 'We used to approach Zayd Ibn Sawhān and he used to say, 'O Slaves of Allāh, be honorable and upright because the path of the slaves to Allāh is only through two practices: fear and hope.' So I approached him one day, and they had written a scroll and they had placed words similar to what follows, *"Allāh is our Lord and Muhammad is our Prophet and the Qur'ān is our Imām. And whosoever is with us, then we are (with him) and we help him; and whosoever contradicts us, then our hand is against him… and we are… and we are…"* So the scroll was presented to them, man-by-man, then they would ask, 'Do you agree, O so-and-so?' until they approached me, then they said, 'Do you accept, O young boy?' I said, 'No.' They said, 'Do not rush the young boy. What do you say, O young boy?' He said, 'I said, 'Verily, Allāh has taken a covenant (*'Ahd*) upon me in His Book, so I will never make a new covenant (*'Ahd*), besides the one which Allāh took!' He said, 'So all of the people retracted from it, and none of them accepted it.' He said, 'I said to Mutarrif, 'How many were you?' He said, 'Approximately thirty men.'

So look - may Allāh be merciful to you - to their state and to the conditions of their hearts, in accepting the Truth and adhering to it, and to their rejection of any matter – even if its appearance was justice and truthfulness – if it was not narrated in its precise manner, in the Book of Allāh, Glory be to Him, or confirmed in the *Sunnah* of His Messenger صلى ا عليه وسلم or if it is something that divides of the nation (*Ummah*), even if it is something small!"

- Then the author concluded his book with an "*advice*" to the callers (*Du'āt*), saying on (Pg. 41), "Verily, this research – despite its simplicity – can be an opportunity for the callers (*Du'āt*) to take become aware, after having been heedless, and to awaken after slumber, and for them to avoid approaching any action or saying, except after knowledge, clarification, awareness and confirmation."

This is a summary of what was written by Mr. 'Alī Ibn Hasan, and he elongated something which did not require elongation, and yet he came with other than the truth. And he did not establish anything, nor did he even clarify anything, even though he took it upon himself (to do so) in the beginning of his book (Pg. 5), and as he advised others to do in the end of his book (Pg. 41).

And the reality is that what I have mentioned in this chapter regarding these issues, beginning with the legitimacy of the covenant in the (*Islāmic*) Legislation, till the ruling upon the one who breaks it – (the truth is that) therein is a sufficient refutation upon the words of the author of the book "*Al-Bay'ah Bayn As-Sunnah Wal-Bid'ah*". Yet despite that, I will summarize what has passed, in a number of points:

Firstly: That the leadership (*Imārah*) of the *Islāmic* groups, which have been established to work collectively upon Righteousness (*Birr*) and Piety (*Taqwā*) - they are valid, *Sharī'ah*-based leaderships, and the explanation of this has passed in the third chapter, along with the refutation upon the doubt of the author concerning leadership (*Imārah*).

Secondly: If the legitimacy of this leadership is confirmed, then it becomes obligatory upon all those who accept them (i.e. to be under these leaderships) to listen and obey the *Amīr*, in whatever is not a disobedience (to Allāh), even if he did not form a covenant with him upon that, because this is obligatory (*Wājib*) originally in the (*Islāmic*) Legislation, (even) without a covenant (*'Ahd*). And the clarification of this has passed in the beginning of this section. And I mentioned there, the words of *Shaykh Al-Islām* Ibn Taymiyyah, concerning the obligation of obeying the "People of Authority", even if the person did not form a covenant (*'Ahd*) or a vow with them (*Hilf*) - so review there the quote from "*Majmū' Al-Fatāwā*". **[331]** And I also mentioned – from before – his statement that: **"… those of you (Muslims) who are in authority …"**, this is inclusive of everyone who is followed. He said, "And everyone

[331] Vol. 35/9-11

who is followed - then he is from the People of Authority…" [332] And included in this, are the *Amīrs* of the groups which have been alluded to.

Thirdly: I mentioned within the issue: *"The Benefit and Objective of This Covenant ('Ahd)"*, which is the second (issue) in this section, that the covenant (*'Ahd*) contains two benefits; the first being the reaffirmation of that which was originally obligated in the (*Islāmic*) Legislation, which is the obedience to the "People of Authority" and assisting them upon the Truth and conducting oneself sincerely towards them, and other than that, from what Allāh and His Messenger صلى ا عليه وسلم have commanded; and the second, was the adhering to extra stipulations which the (*Islāmic*) Legislation did not originally obligated, and which only become obligatory (*Wājib*) due to the (obligation of) fulfilling the covenant (*'Ahd*), as long as they do not contradict the Book and the *Sunnah*. And I mentioned there, the words of *Shaykh Al-Islām* Ibn Taymiyyah, in this matter, quoting from "*Majmū' Al-Fatāwā*" [333]. And from the instances where *Shaykh Al-Islām* clearly stated that it is obligatory (*Wājib*) upon the slave for both reasons, is his statement, "… like the contracts between the people upon the performance of that which Allāh and His Messenger have commanded." [334] And this phrase, specifically, is completely applicable to the groups which we are discussing. So if a group (*Jamā'ah*) is established with the goal of giving victory to the Religion (*Dīn*), then it is obligatory (*Wājib*) upon every Muslim to cooperate with this group (*Jamā'ah*), whether he forms a covenant (*'Ahd*) with it or does not form a covenant (*'Ahd*) - because this (i.e. support) is originally obligatory (*Wājib*) in the (*Islāmic*) Legislation to begin with anyways, due to His, the Most High's, statement:

وَتَعَاوَنُوا عَلَى ا وَالتقْوَى

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332 Refer to "*Majmū' Al-Fatāwā*" (28/170).

333 Vol. 29/341-345

334 "*Majmū' Al-Fatāwā*" (29/346)

Trans. Note: In the Arabic print, it says "29/546", but we changed it to "29/346", as this statement was quoted twice earlier with this page number.

And help you one another in *Al-Birr* and *At-Taqwā* (virtue, righteousness and piety)…[335]

Then if he forms a covenant (*'Ahd*) with it (i.e. the *Jamā'ah*), then this obligation becomes reaffirmed, due to the obligation of fulfilling the covenant (*'Ahd*):

وَأَوْفُواْ بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْؤُولاً

And fulfill (every) covenant. Verily, the covenant will be questioned about. [336]

And likewise, *As-Sam' Wat-Tā'ah* (the listening and obeying) are both obligatory (*Wājib*) upon every individual in the likes of these groups, towards the "People of Authority" from amongst them, whether or not he has formed a covenant (*'Ahd*) upon this. So then, if he forms a covenant (*'Ahd*), the obligation is reaffirmed.

Fourthly: That the covenants among the Muslims, upon the performance of the acts of obedience, are permissible. And that which I mentioned in the issue of: *"The Legitimacy of This Covenant ('Ahd) In the Sharī'ah"*, is clear enough to not need to be repeated here, as I mentioned the evidence for its harmony with the (*Islāmic*) Legislation, from the *Qur'ān*, the *Sunnah* and the historical accounts (*Sīrah*) of the Companions (*Sahābah*), may Allāh be pleased with them.

Fifthly: It is permissible to label these covenants as "*Bay'ahs*", as I mentioned in the fifth issue from this section, which was: *"Is It Allowed to Call This Covenant a "Bay'ah?"* (And I mentioned) that it is possible to include this (permissibility) within the consensuses of the *Sahābah*, due to the action of 'Ikrimah on the Day of *Yarmūk*, without any of the *Sahābah* objecting to him. Then the action of Qays Ibn Sa'd at *Siffīn*, till the end of what I mentioned there, from that which indicates the permissibility of this labeling. And with that, the words of the Mr. 'Alī Ibn Hasan collapse, on (Pg. 32), as he

335 **Trans. Note:** *Al-Mā'idah*, 2
336 **Trans. Note:** *Al-Isrā'*, 34

stated, "… and none of them – in what I have come across – spoke about these unusual *Bay'ahs*." And on (Pg. 33) as he said, "Where were the Predecessors (*Salaf*) of this nation with respect to the likes of these unusual *Bay'ahs*?" And note how I stated that the historical accounts (*Sīrah*) of the *Sahābah* prove only the permissibility, and not the obligation, of this labeling - and due to that, despite the permissibility of labeling these covenants as "*Bay'ahs*", I think that the covenants of the groups, currently, should not be labeled (with the term) "*Bay'ah*", and instead it should be limited to being labeled (with the term) "*'Ahd*", so that it will not be confused with the *Bay'ah* of the *Khalīfah*. And (this should be done) so that this generation of Muslims will be well-aware that they do not have *"… a Bay'ah upon their necks…"* to the *Imām* of the Muslims, (and) so (accordingly) they will strive for this affair (i.e. establishing a *Khilāfah*).

And from the point of refuting the words of the author (Pg. 32-33, 39) and his statement that these *Bay'ahs* were not from the methodology (*Manhaj*) of the Righteous Predecessors (*As-Salaf As-Sālih*), I will mention, in what follows, some of the *Bay'ahs* which took place between the Muslims, within the (first) Three Virtuous Generations (*Al-Qurūn Ath-Thalāthah*) of this *Ummah*, so that the Muslim will know that the covenant (*'Ahd*), or the Pledge of Allegiance (*Bay'ah*), upon the acts of obedience – *at the head of which are the obligations of Commanding the Good and Forbidding the Evil, and Jihād* – was an issue that was well known amongst the Righteous Predecessors (*As-Salaf As-Sālih*), from the Companions (*Sahābah*) and the *Tābi'īn,* and those who came after them. And from that:

1. The *Bay'ah For Death* given to the Companion 'Ikrimah Ibn Abī Jahl (may Allāh be pleased with him) in front of the faces of four hundred Muslims, on the Day of *Yarmūk*. And it was mentioned and the commentary upon it has preceded earlier - and this is a *Bay'ah* upon obedience. [337]

[337] "*Al-Bidāyah Wan-Nihāyah*" (7/11)

2. The *Bay'ah For Death* given to the Companion Qays Ibn Sa'd from forty thousand, on the Day of *Siffīn*. And was mentioned earlier. [338]

3. The *Bay'ah* of the people of *Al-Kūfah* to Al-Husayn Ibn 'Alī Ibn Abī Tālib, may Allāh be pleased with them both, in the year 61 H. to rebel against the *Khalīfah* of the time, Yazīd Ibn Mu'āwiyah. And Al-Husayn sent his paternal cousin, Muslim Ibn 'Aqīl to take the *Bay'ah* on his behalf. So eighteen thousand Muslims gave him *Bay'ah*. [339]

4. The *Bay'ah* of the people of Madīnah, to the Companion 'Abdullāh Ibn Hanthalah, in the year 63 H. to rebel against Yazīd Ibn Mu'āwiyah. So it became known as "The Event of *Al-Harrah*", and it has been mentioned previously. [340]

5. The request from 'Abdullāh Ibn Az-Zubayr, the Companion, for the *Bay'ah* to be given to himself, after the death of Yazīd Ibn Mu'āwiyah, and all of the (surrounding) regions gave him *Bay'ah* except for Jordan and those who were in it from *Banī Umayyah*, and at their head was Marwān Ibn Al-Hakam. So they gave *Bay'ah* to Marwān and they waged war against the People of Ash-Shām, then Egypt, then 'Irāq, until the matter ended with the murder of Az-Zubayr in the year 73 H. And Ibn Az-Zubayr was labeled "*Amīr Al-Mu'minīn*" and his *Khilāfah* continued from the year 64 H. up until 73 H. [341]

6. And Ibn Kathīr mentioned that the people of Damascus gave *Bay'ah* to Adh-Dhahhāk Ibn Qays, when the *Khalīfah* of the time, Mu'āwiyah Ibn Yazīd, died, in order for him to reconcile between them and to establish their order until the people united upon an *Imām*. [342]

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[338] "*Fat'h Al-Bārī*" (13/63)

[339] Refer to "*Al-Bidāyah Wan-Nihāyah*" (8/152) and what follows it.

[340] "*Al-Bidāyah Wan-Nihāyah*"(8/217); "*Fat'h Al-Bārī*" (6/118, 13/68)

[341] "*Fat'h Al-Bārī*" (13/69 & 194) and "*Al-Bidāyah Wan-Nihāyah*" (8/238) and what comes after it.

[342] "*Al-Bidāyah Wan-Nihāyah*" (8/239)

7. And Ibn Kathīr mentioned in "The Events of the Year 64 H."; he said, "And in it, the group of the *Shī'ah* united upon Sulaymān Ibn Sard…" – and he was a great Companion, as Ibn Kathīr stated – "… in *Al-Kūfah*, and they made a promise (*Wa'd*) beneath a palm tree to take vengeance on behalf of Al-Husayn Ibn 'Alī Ibn Abī Tālib…" – until he said – "… so they became united after a series of sermons and admonitions, upon selecting Sulaymān Ibn Sard as *Amīr* over them. So they formed a covenant (*'Ahd*) and a contract (*'Aqd*) and they pledged beneath the palm tree." [343] I say: The *Shī'ah*, at that time had still not been labeled as "*Ar-Rāfidhah*", [344] and they were not labeled with that (term) until the time of Zayd Ibn 'Alī, as it will be mentioned.

8. The rebellion of 'Abdur-Rahmān Ibn Al-Ash'ath against Al-Hajjāj Ath-Thaqafī and then (later against) the *Khalīfah*, 'Abdul-Malik Ibn Marwān, (in the years) 81 – 82 H. And Ibn Al-Ash'ath was the head of an army of Al-Hajjāj in Persia, but then he (began to) hate some of his(i.e. Al-Hajjāj's) deeds. Ibn Al-Ash'ath said to those who were with him, "'Remove the enemy of Allāh, Al-Hajjāj!' – but he did not mention the removal of 'Abdul-Malik – 'And give *Bay'ah* to your *Amīr*, 'Abdur-Rahmān Ibn Al-Ash'ath, because I make you witnesses that I am the first (who will) remove Al-Hajjāj!' So the people said from all directions, 'We shall remove the enemy of Allāh, Al-Hajjāj!' and they leaped to 'Abdur-Rahmān Ibn Al-Ash'ath. So they gave him *Bay'ah* in place of Al-Hajjāj, but they did not mention the removal of 'Abdul-Malik Ibn Marwān." – until he said – "So when they approached the midway point of their path, they said, 'Verily, our removal of Al-Hajjāj is a removal of Ibn Marwān.' So they removed both of them and renewed their *Bay'ah* to Ibn Al-Ash'ath. So he took the *Bay'ah* from them upon the Book of Allāh and the *Sunnah* of His Messenger and to remove the leaders of misguidance, and to wage *Jihād* against the disbelievers

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[343] "*Al-Bidāyah Wan-Nihāyah*" (8/247)

[344] **Trans. Note:** The point of the author here is to clarify that although this group may have been called "*Shī'ah*", which means "sect" or "division", these were not the *Shī'ah*, which later became known as the *Rāfidhah*; the accursed sect which innovated *shirk* in the Religion and represents the greater majority of *Shī'ah* in our time. And Allāh knows best.

(*Mulhidīn*)." **345** And Ibn Kathīr said, "And all of those who were present in *Al-Basrah*, from the Jurists (*Al-Fuqahā'*), the Recitors [*Al-Qurā'* (i.e. Scholars)], the elders (*Shuyūkh*), and the young men (*Shabāb*), agreed with him in removing them both." **346** And Ibn Kathīr said, "And the people began to gather around Ibn Al-Ash'ath from every side, to the point where it was said that he had with him, thirty-three thousand mounted soldiers and one hundred and twenty thousand foot soldiers." **347** And Ibn Kathīr said, "And Ibn Al-Ash'ath entered *Al-Kūfah*, so its people gave him *Bay'ah* upon the removal of Al-Hajjāj and 'Abdul-Malik Ibn Marwān." **348** And Ibn Kathīr said, "And the sum total from all those who joined with Ibn Al-Ash'ath, was one hundred thousand fighters from those who receive donations, and along with them was a similar number of their masters." **349** And Ibn Kathīr said, "And Ibn Al-Ash'ath placed Jabalah Ibn Zahr (as a commander) over the Battalion of Recitors (*Al-Qurrā'*) – the scholars (*'Ulamā'*) – and within them was Sa'īd Ibn Jubayr, 'Āmir Ash-Sha'bī, 'Abdur-Rahmān Ibn Abī Layla and Kumayl Ibn Ziyād – who was a strong and lethal (fighter) despite his old age – and Abul-Bakhtarī At-Tā'ī and others." **350** And from that which Ash-Sha'bī said was, "Fight them upon their tyranny (*Jawr*), their humiliating of the weak and their causing the death to the *Salāt*!" **351**

9. The rebellion of Zayd Ibn 'Alī Ibn Al-Husayn Ibn 'Alī Ibn Abī Tālib, in the year 121 H., against the *Khalīfah* of the time, Hishām Ibn 'Abdil-Malik. And Zayd is the one to whom the assembly (*Tā'ifah*) of "*Az-Zaydiyyah*" from the *Shī'ah* attribute themselves to. Ibn Kathīr said, "Forty thousand from the people of *Al-Kūfah* gave him *Bay'ah* upon that." **352**

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345 "*Al-Bidāyah Wan-Nihāyah*" (9/36)
346 "*Al-Bidāyah Wan-Nihāyah*" (9/37)
347 "*Al-Bidāyah Wan-Nihāyah*" (9/36)
348 "*Al-Bidāyah Wan-Nihāyah*" (9/40)
349 "*Al-Bidāyah Wan-Nihāyah*" (9/41)
350 "*Al-Bidāyah Wan-Nihāyah*" (9/42)
351 "*Al-Bidāyah Wan-Nihāyah*" (9/40)
352 "*Al-Bidāyah Wan-Nihāyah*" (9/327)

10. The rebellion of Yazīd Ibn Al-Walīd against his paternal cousin, the *Khalīfah* of the time, Al-Walīd Ibn Yazīd Ibn 'Abdil-Malik in the year 126 H. Ibn Kathīr said, "And we have mentioned some of the matter of Al-Walīd Ibn Yazīd and his lewdness, his shamelessness, his corruption (*fisq*), and what was mentioned from his negligence towards the *Salāt* and his taking lightly the matters of his Religion, prior to his *Khilāfah* and after it (began), as he did not increase the *Khilāfah* in anything except evil." [353] So Yazīd Ibn Al-Walīd stood up to remove him and the people gave him *Bay'ah* upon that, and the armies grew around him, all of them giving him *Bay'ah* upon the *Khilāfah*, and he sought after Al-Walīd Ibn Yazīd, then killed him. [354]

11. The *Bay'ah* of Mu'āwiyah Ibn 'Abdillāh Ibn Ja'far Ibn Abī Tālib. Ibn Kathīr said, "And in this year – 127 H. – Mu'āwiyah Ibn 'Abdillāh emerged in *Al-Kūfah* and campaigned for himself and went out to wage war against the *Amīr* of 'Irāq, 'Abdullāh Ibn 'Umar Ibn 'Abdil-'Azīz. Then battles occurred between them, the mentioning of which would be too lengthy." [355]

12. The establishment of the 'Abbāsid (*'Abbāsiyyīn*) state, from the beginning of their campaign in the year 100 H. until the beginning of the *Khilāfah* of As-Saffāh, their first *Khalīfah*, (in the year) 132 H. Ibn Kathīr said, "In the year 118 H. – and in that year was the death of 'Alī Ibn 'Abdullāh Ibn 'Abbās – and many of the people had given the *Bay'ah* of *Khilāfah* to his son, Muhammad, prior to the death of 'Alī, this (took place) several years prior to this year; however, his authority did not become strong until he died. So afterwards, his son, 'Abdullāh Abul-'Abbās As-Saffāh, established his authority, and the emergence (of his strength) came in the year 132 H." [356]

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[353] "*Al-Bidāyah Wan-Nihāyah*" (10/8) **Trans. Note:** In the Arabic print, it only says (Pg. 8), but we added the volume number, as is clear from the next footnote.
[354] "*Al-Bidāyah Wan-Nihāyah*" (10/8-11)
[355] "*Al-Bidāyah Wan-Nihāyah*" (10/25)
[356] "*Al-Bidāyah Wan-Nihāyah*" (9/123)

So here, the people gave the *Bay'ah* of *Khilāfah* to Muhammad Ibn 'Alī Ibn 'Abdullāh Ibn 'Abbās, (despite) the presence of a (proper) *Sharī'ah*-based Umayyid (*Umawiyyah*) *Khilāfah*, and when Muhammad Ibn 'Alī died in the year 125 H., he bequeathed (the *Khilāfah*) after him, to his son, Ibrāhīm. [357] So Ibrāhīm wrote to Abū Muslim Al-Khurāsānī in the year 129 H. to openly declare the campaign, so the people came to Abū Muslim from all sides and his army became larger. [358] Then Ibrāhīm was killed in the year 132 H. and he bequeathed (the *Khilāfah*), after him, to his brother, Abul-'Abbās As-Saffāh. [359] And this took place during the *Khilāfah* of Marwān Ibn Muhammad, the last of the *Khalīfahs* of *Banī Umayyah*. So Abul-'Abbās entered *Al-Kūfah*, and they gave *Salām* to him as the *Khalīfah,* and (when) he ascended the pulpit (*Minbar*), the people gave *Bay'ah* to him while he was on the pulpit (*Minbar*). [360] Then he deputized his uncle, 'Abdullāh Ibn 'Alī to fight the *Khalīfah* Marwān Ibn Muhammad, until Marwān was killed and the *Khilāfah* became settled with Abul-'Abbās As-Saffāh in the year 132 H. [361]

And from that which is worthy of being mentioned, is that the campaign of *Banī Al-'Abbās* for their (desired) state continued for 32 or more years, during the *Khilāfah* of *Banī Umayyah*, and they would take the *Bay'ah* from the people, despite the presence of a (proper) *Sharī'ah*-based Umayyid *Khilāfah*.

And from that which is also worthy of being mentioned, is that they would take the *Bay'ah* from the people to an unnamed person and he was "*The Approval From the Family of Muhammad* **صلى ا عليه وسلم**." [362] And it meant whoever the Family of Muhammad approves of and agrees upon. And that was to prevent division between the 'Alawīs ('*Alawiyyah*) and the 'Abbāsids, so they would become united against *Banī Umayyah*.

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357 Vol. 10/5
358 Vol. 10/30
359 Vol. 10/38-39
360 Vol. 10/40
361 "*Al-Bidāyah Wan-Nihāyah*" (9/321), and (10/5, 25, 30, 31, 39, 42)
362 Look to "*Al-Bidāyah Wan-Nihāyah*" (10/31)

13. The *Bay'ah* of Abū Muhammad As-Sufyānī. Ibn Kathīr said, in the year of 132H., "And the matter worsened for 'Abdullāh Ibn 'Alī, the uncle of the *Khalīfah*, As-Saffāh, and that was when the people of *Qansirrīn* contacted the People of Homs and they called out, and they united upon Abū Muhammad As-Sufyānī, and he was Abū Muhammad 'Abdullāh Ibn Yazīd Ibn Mu'āwiyah Ibn Abī Sufyān. So they gave the *Bay'ah* of *Khilāfah* to him and approximately forty thousand (men) stood up with him. And then, 'Abdullāh Ibn 'Alī decided to (attack) them, so they met at the Field of *Al-Akhram*. So they fought against the front lines of As-Sufyānī, and its (commander) was Abul-Ward, and they fought a fierce battle." [363]

14. The *Bay'ah* of 'Abdur-Rahmān Ad-Dākhal, the Umayyid *Khalīfah* in *Al-Andalus* (i.e. Spain), during the era of the 'Abbāsids. Ibn Kathīr said, (in the chapter for the year of) 138 H., "And in it (i.e. 138 H.) was the *Khilāfah* of Ad-Dākhal from *Banī Umayyah*, to *Bilād Al-Andalus* (the Land of Spain). And he is 'Abdur-Rahmān Ibn Mu'āwiyah Ibn Hishām Ibn 'Abdil-Malik Ibn Marwān… And he had entered into *Bilād Al-Maghrib* (the Land of North Africa), fleeing from 'Abdullāh Ibn 'Alī, so he emigrated with his companions who fled with him, along with a people who used to fight for patriotism-based loyalties towards the Yamānī and Mudhar. So he quickly sent his servant to them, and he (i.e. the servant) enticed them in his favor, so they gave him *Bay'ah* - so he entered with them and then conquered *Bilād Al-Andalus* (the Land of Spain). Then he overpowered it and took it from its deputy, Yūsuf Ibn 'Abdir-Rahmān Ibn Habīb Ibn Abī 'Ubaydah Ibn 'Uqbah Ibn Nāfi' Al-Fahrī, and killed him. And 'Abdur-Rahmān resided in *Qurtubah* (i.e. Cordova, Spain) and remained upon his *Khilāfah* in those lands from this year until the year 172 H." [364]

15. The *Bay'ah* of Muhammad "*An-Nafs Az-Zakiyyah*" (lit. "The Pure Soul") and his rebellion against the 'Abbāsid *Khalīfah*, Abū Ja'far Al-Mansūr, in the year 145 H. Ibn Kathīr said, "Then the year 145 H. began and from what took place therein, were events such as the

[363] "*Al-Bidāyah Wan-Nihāyah*" (10/52)
[364] "*Al-Bidāyah Wan-Nihāyah*" (10/74)

emergence of Muhammad Ibn 'Abdillāh Ibn Hasan (*An-Nafs Az-Zakiyyah*) in Madīnah, and his brother, Ibrāhīm, in *Al-Basrah*." [365] And Ibn Kathīr said, "And Muhammad Ibn 'Abdillāh Ibn Hasan woke up in the morning, and he had (now) become dominant over Madīnah, and its people gave him their allegiance, so he prayed the dawn prayer with the people and recited the *Sūrah*: **'Verily, We have given you a clear victory…'** [i.e. *Sūrah Al-Fat'h*] and this night brought about the commencement of (the month of) *Rajab* of that year, and Muhammad Ibn 'Abdillāh addressed the people of Madīnah on this day. And he spoke against *Banī Al-'Abbās* and he mentioned things about them with which he criticized them. And he informed them that he did not go to any land except that they had given him *Bay'ah* upon *As-Sam' Wat-Tā'ah* (listening and obeying), so all of the people of Madīnah gave him *Bay'ah,* except for a few."

And Ibn Jarīr narrated from *Imām* Mālik that he issued a *Fatwā* concerning (the obligation of) giving *Bay'ah* to him (i.e. Muhammad *An-Nafs Az-Zakiyyah*). So it was said to him (i.e. *Imām* Mālik), 'But we have, upon our necks, a *Bay'ah* to Al-Mansūr.' So he said, **'Verily, you were only coerced (*Mukrahīn*), and there is no (valid) *Bay'ah* from he who is coerced (*Mukrah*).'** So the people gave him *Bay'ah* upon that, due to the saying of Mālik, and (thereafter) Mālik remained in his home." [366]

And Ibn Kathīr said that Abū Ja'far Al-Mansūr, the *Khalīfah*, wrote to him (Muhammad *An-Nafs Az-Zakiyyah*) saying, "So you have the covenant (*'Ahd*) of Allāh and His Promise (*Mīthāq*) and His Protection and the protection of His Messenger, if you return to *At-Tā'ah* (the obedience), then I shall offer you safety along with those who followed you." [367] And Ibn Kathīr said that when Al-Mansūr sent his army to fight Muhammad, Muhammad Ibn 'Abdillāh ascended the pulpit (*Minbar*), then he addressed the people and

[365] Vol. 10/82
[366] Vol. 10/83-84
[367] Vol. 10/84-85

incited them upon *Al-Jihād,* and they were close to one hundred thousand." [368]

16. The *Bay'ah* of Ibrāhīm Ibn 'Abdillāh Ibn Hasan (the brother of Muhammad *An-Nafs Az-Zakiyyah*). And he used to campaign secretly on behalf of his brother. Then when his brother (Muhammad *An-Nafs Az-Zakiyyah*) was killed in 145 H., he brought forth a campaign to himself and arrived in *Al-Basrah* and crowds of people gave *Bay'ah* to him, and the people began coming from every direction to give him *Bay'ah*. And *Al-Basrah*, *Al-Ahwāz*, Persia and the cities and the majority of the lands gave him their allegiance. And he left *Al-Basrah* with one hundred thousand warriors, heading for *Al-Kūfah*, to fight the army of the *Khalīfah*, Abū Ja'far Al-Mansūr. [369]

And Ibn Kathīr said about Muhammad and his brother Ibrāhīm, "And it is said about a group of the scholars (*'Ulamā'*) and the *Imāms*, that they inclined towards the authority of both of them (as the valid, proper authority)." [370] And from those who inclined towards the authority of Muhammad, was *Imām* Mālik, in Madīnah, as it has passed. And from those who inclined towards the authority of Ibrāhīm, were *Imām* Abū Hanīfah, and Shu'bah Ibn Al-Hajjāj and Hushaym, and both of the latter two are from the *Imāms* of *Hadīth*.

17. The *Bay'ah* of Ahmad Ibn Nasr Al-Khuzā'ī in the year 231 H. upon the Commanding of the Good and the Forbiddance of the Evil in general; and later, he was given *Bay'ah* for the rebellion (*Khurūj*) against the *Khalīfah* Al-Wāthiq, due to his transgression (*fisq*) and his innovation (*Bid'ah*). Ibn Kathīr said, "Then the year 231 H. began, and in it was the killing of Ahmad Ibn Nasr Al-Khuzā'ī, may Allāh be merciful to him and make his reward generous." – until his saying – "And the general public gave him *Bay'ah* in the year 201 H. upon establishing the Commanding (of the Good) and the Forbiddance (of the Evil), when the people of

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368 Vol. 10/88 "*Al-Bidāyah Wan-Nihāyah*" (10/82-90)
369 "*Al-Bidāyah Wan-Nihāyah*" (10/91-94)
370 "*Al-Bidāyah Wan-Nihāyah*" (10/95)

evil and obscenity became widespread during the absence of Al-Ma'mūn from Baghdād, as was mentioned [i.e. by Ibn Kathīr earlier in his history book]. And the (small) Marketplace of Nasr in Baghdād was named after him. And this Ahmad Ibn Nasr was from the People of Knowledge, justice, righteous deeds, and exertion for goodness. And he was from the *Imāms* of the *Sunnah,* commanding the good and forbidding the evil, and he was from those who called to (the proper creed) that the *Qur'ān* is the Speech of Allāh, sent down uncreated. Whereas Al-Wāthiq was from the most extreme people upon the claim that the *Qur'ān* was created, and he called to that night and day, relying on what his father before him, and his uncle, Al-Ma'mūn, were upon, without any evidence (*Dalīl*), nor proof (*Burhān*), nor argument (*Hujjah*), nor clarification (*Bayān*), neither from the *Sunnah* nor the *Qur'ān*.

So Ahmad Ibn Nasr stood up, calling to Allāh and to the Commanding of the Good and the Forbiddance of the Evil, and called to the saying that the *Qur'ān* is the Speech of Allāh, sent down uncreated – and he called the people towards many (such) things. So a group of the people of Baghdād united upon him, along with thousands of numbers of people. And two men were committed to the spread the campaign to Ahmad Ibn Nasr, and they were Abū Harūn As-Sirāj – and he used to call the Eastern region, and another who was called Tālib – and he used to call the Western region. So several thousands of people and many groups united upon him. So when it was the month of *Sha'bān* (in) this year, the *Bay'ah* was arranged to Ahmad Ibn Nasr Al-Khuzā'ī secretly, upon the establishment of the Commanding of the Good and the Forbidding of the Evil, and the rebellion against the *Sultān*, due to his *Bid'ah* and his calling to the claim that the *Qur'ān* was created and the sins (*Ma'āsī*) and lewdness (*Fawāhish*) and such which he and his *Amīrs* and his entourage were upon." [371]

I say: Look, O honored reader, to these *Bay'ahs* that I have mentioned and which thousands of people used to enter into and which many of the *Tābi'īn* (Successors of the Companions) viewed

[371] "*Al-Bidāyah Wan-Nihāyah*" (10/303-304)

as good and entered into them, and which the two *Imāms* - Mālik and Abū Hanīfah - incited the people upon. Then look to the words of the author of the book "*Al-Bay'ah Bayn As-Sunnah Wal-Bid'ah*" as he stated, "…and none of the (pious) predecessors – in what I have come across – spoke about these unusual *Bay'ahs*." And he said, "Where were the Predecessors (*Salaf*) of this nation with respect to the likes of these unusual *Bay'ahs*?" [372]

And these *Bay'ahs* which I have just mentioned, from them are:

1. ***Bay'ahs* upon *Jihād* and *Istish'hād* (martyrdom),** such as the *Bay'ah* of 'Ikrimah Ibn Abī Jahl and Qays Ibn Sa'd, from those who were with them, and they were both Companions - may Allāh be pleased with them both.

2. ***Bay'ahs* upon Commanding the Good and Forbidding the Evil,** such as the *Bay'ah* of the people of Madīnah, to their *Amīrs*, during "The Event of *Al-Harrah*" and the *Bay'ah* of Sulaymān Ibn Sard and the *Bay'ah* of Ahmad Ibn Nasr Al-Khuzā'ī.

3. ***Bay'ahs* upon establishing the order of a party (*Tā'ifah*) of the Muslims, until a *Khalīfah* has emerged,** such as the *Bay'ah* of the people of Damascus to Adh-Dhahhāk Ibn Qays.

4. ***Bay'ahs* upon disputing the *Khilāfah* by rebelling against the tyrannical leaders,** such as the *Bay'ahs* of Al-Husayn Ibn 'Alī, 'Abdullāh Ibn Az-Zubayr, Ibn Al-Ash'ath, Zayd Ibn 'Alī, Yazīd Ibn Al-Walīd, Mu'āwiyah Ibn 'Abdillāh Ibn Ja'far, the 'Abbāsids, Abū Muhammad As-Sufyānī, 'Abdur-Rahmān Ad-Dākhal, Muhammad *An-Nafs Az-Zakiyyah* and his brother, Ibrāhīm.

And the first three categories of these *Bay'ahs* were not *Bay'ahs* upon *Khilāfah,* and these are the ones which the author of the book "*Al-Bay'ah*" labeled as "… the unusual *Bay'ahs*…" and he denied that they ever took place amongst the Predecessors (*Salaf*). As for the fourth category, then they also are not *Bay'ahs* of *Khilāfah* –

[372] Pg. 32 & 33

rather, they are *Bay'ahs* upon seeking the *Khilāfah* and upon disputing with the *Khalīfah* of the time. And none of these *Bay'ahs* are considered as the (true) *Bay'ah* of the *Khilāfah*, except by the *Khilāfah* being consolidated by the one seeking it, and the majority of the Muslims entering into this *Bay'ah*. As for prior to that, the (true) *Sharī'ah*-based *Bay'ah* is the *Bay'ah* (which was given) to the *Khalīfah*, who is being rebelled against at that time. And of those rebels for whom the *Khilāfah* was consolidated (i.e. their rebellion was successful), were 'Abdullāh Ibn Az-Zubayr, Yazīd Ibn Al-Walīd, the 'Abbāsids and 'Abdur-Rahmān Ad-Dākhal. So all of their *Bay'ahs* are included under the label of "the unusual *Bay'ahs*" before their consolidation of the *Khilāfah*, whether or not they were able to consolidate the *Khilāfah.*

And a questioner might ask, **"What is the ruling (*Hukm*) upon the rebellion (*Khurūj*) of these rebels (*Khārijīn*) against these *Khalīfahs*?"**

I say: there is no disagreement regarding the obligation of rebelling against the *kāfir* ruler - for all those who are able to do so. As for the transgressing sinner (*fāsiq*) or the oppressor (*thālim*) – which is actually the situation of the reality of the most of the *Bay'ahs* mentioned above – there was a disagreement concerning it amongst the Predecessors (*Salaf*) of the *Ummah*. So from them were those who obligated (*Wājib*) it (i.e. rebellion), due to the generality of the *Hadīths* concerning the Commanding of the Good and the Forbidding of the Evil [373] ; and from them were those who forbade

[373] **Trans Note:** Such as those narrated by *Imām* Muslim in his "*Sahīh*":

a) From Ibn Mas'ūd, that the Messenger of Allāh صلى ا عليه وسلم said, *"There was no Prophet whom Allāh sent in a nation before me, except that he had Disciples and Companions from his nation, who took his Sunnah and followed his command. Then successors succeeded after them who said that which they did not practice, and practiced that which they were not commanded to. So whoever makes Jihād against them with his hand, then he is a Believer, and whoever makes Jihād against them with his tongue, then he is a Believer, and whoever makes Jihād against them with his heart, then he is a Believer - and beyond that there is not (the weight of) a mustard seed of Īmān."*

it (i.e. rebellion), due to the *Hadīths* (such as), *"Whoever hates something from his Amīr, then he should be patient…"* So these *Bay'ahs* mentioned above were based upon the application of the general obligation of Commanding the Good and the Forbidding the Evil.

Then, after these tribulations, the opinion of the majority of *Ahl As-Sunnah Wal-Jamā'ah* settled upon remaining patient with the tyrannical leaders and preventing of rebellion against them. And *Imām* An-Nawawī has mentioned this old difference of opinion and what the opinion (eventually) settled upon, as he said, "*Al-Qādhī* 'Iyādh said, 'So if transgression (*fisq*) is perpetrated by the *Khalīfah*, some of the scholars said that it is obligatory to remove him, unless tribulation (*fitnah*) and war would result from that. And the majority of *Ahl As-Sunnah*, from the jurists (*Fuqahā'*) and the *Hadīth* specialists (*Muhaddithīn*) and the experts in theoretical debate (*Mutakallimīn*), said that he should not be removed due to transgression (*fisq*) or oppression (*thulm*) or the denial of rights, and he is not be to removed nor it is allowed to rebel against him due to that. Rather, it is obligatory (*Wājib*) to admonish him and cause him to fear (Allāh's punishment), due to the *Hadīths* which are narrated about that.' **[374]** *Al-Qādhī* said, 'And Abū Bakr Ibn Mujāhid claimed

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b) From Tāriq Ibn Shihāb, who said,"The first one who began giving the *Khutbah* on the Day of 'Eid before the prayer, was Marwān, so a man stood up to him and said, 'The *Salāt* is before the *Khutbah*.' So he (Marwān) said, 'That which was there has been left.' So Abū Sa'īd said, "As for this one, then he has fulfilled that which is upon him. I heard the Messenger of Allāh صلى ا عليه وسلم saying, *'Whoever from you sees something evil, then he should change it with his hand; then if he is unable, then with his tongue, then if he is unable, then with his heart - and that is the weakest of Īmān.'"*

[374] **Trans. Note:** Such as what *Imām* Al-Bukhārī narrated in his "*Sahīh*":

a) From Usayyid Ibn Hudhayr, that a man came to the Prophet صلى ا عليه وسلم then said, "O Messenger of Allāh, you used so and so (as an authority), but you haven't used me?" He said, *"After me you will see selfishness, so be patient until you meet me."*

b) From 'Abdullāh Ibn Mas'ūd, who said, "The Messenger of Allāh صلى ا عليه وسلم said to us, *"You will see after me, selfishness and (other) matters that you will hate.'*

that there was a consensus of opinion (*Ijmā'*) upon this, and some of them have rejected this upon him with the (evidence of the) uprising of Al-Husayn, Ibn Az-Zubayr, the people of Madīnah against *Banī Umayyah,* and with the uprising of a large group of the *Tābi'īn* and the earliest (generations) along with Ibn Al-Ash'ath against Al-Hajjāj. And the one who says this interprets his statement *"… and that we would not dispute the authority from its people …"* to be regarding the Just Leaders. And the argument of the majority is that their uprising against Al-Hajjāj was not merely due to transgression (*fisq*) – rather, it was when he changed things from the (*Islāmic*) Legislation, and externalized some *kufr* (*Thāhara Min Al-Kufr*).' **375** *Al-Qādhī* said, 'And it is said that this disagreement was in the beginning, but afterwards, a consensus

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They asked, 'What do you order us to do, O Messenger of Allāh?' He said, *'Pay their rights to them (to the rulers) and ask your rights from Allāh.'"*

c) 'Iyādh Ibn Ghanm who said, "The Messenger of Allāh صلى ا عليه وسلم said, *'Whoever has advice for the one with authority then he should take him by the hand and take him into seclusion (and then advise him). Then if he accepts it, then he accepts it, and if he rejects it, then he has fulfilled that which was (a duty) upon him.'"* Reported by Ibn Abī 'Āsim, and Al-Albānī authenticated it in "*Kitāb As-Sunnah*" (1,098).

375 **Trans. Note:** In keeping with the *Hadīth* from Junādah Ibn Abī Umayyah, who said that 'Ubādah Ibn As-Sāmit said, "The Messenger of Allāh صلى ا عليه وسلم called us, so we gave *Bay'ah* to him. So from (the stipulations) which he took from us was that we offer *Bay'ah* upon listening and obeying, during our eagerness or reluctance and in our difficult times and in our easy times and favoring (the commands) instead of our own (desires), and that we would not dispute the authority from its people.' He said, ***'Unless you see an open disbelief (Kufr), for which you have an evidence from Allāh about it.'"*** The matter of Al-Hajjāj was disagreed upon by the Predecessors (*As-Salaf)* as there were some of them who considered him a disbeliever (*kāfir*), and others who did not. Abū Bakr Ibn Abī Shaybah narrated in "*Kitāb Al-Īmān*" (Pg. 32), with an authentic chain from Ash-Sha'bī, that he said, "I bear witness that he (Al-Hajjāj) is a believer in the *Tāghūt* and a disbeliever in Allāh." Also, from Tāwūs, with an authentic chain, that he said, "It is strange from our brothers from the people of 'Irāq that they say, 'Al-Hajjāj is a believer." And *Al-Hāfith* Ibn Hajar mentioned in "*Tahthīb At-Tahthīb*" (2/211), "And a group declared him as a disbeliever (*Takfīr*), and from them were Sa'īd Ibn Jubayr, An-Nakh'ī, Mujāhid, 'Āsim Ibn Abī An-Najūd, Ash-Sha'bī and others." And Allāh knows best.

(*Ijmā'*) was formed to prevent the rebellions against them. And Allāh knows best." [376]

And *Shaykh Al-Islām* Ibn Taymiyyah (may Allāh be merciful to him) mentioned that being patient with the tyrannical leaders, and not rebelling against them, is what the opinion of *Ahl As-Sunnah* settled upon after old difference of opinion in this issue. [377]

I say: And this issue began to be discussed within the beliefs of *Ahl As-Sunnah Wal-Jamā'ah* as it is affirmed in the books of *'Aqīdah* (creed) which are widespread. The author of "*Al-'Aqīdah At-Tahāwiyyah*" said, "And we do not allow the rebellion against our leaders and the guardians of our affairs, even if they become tyrannical, and we do not supplicate against them, and we do not remove a (single) hand away from obeying them. And we view that obeying them is a part of obedience to Allāh, Glorified is He, which is an obligation (*Farīdhah*) as long as they do not order any sin, and we supplicate for them for righteousness and recovery." [378]

And Ibn Hajar has narrated, from Ibn Battāl, consensus (*Ijmā'*) upon this as well. And Ibn Hajar said, "And Ibn At-Tīn narrated from Ad-Dāwūdī, who said, "The scholars are (united) regarding that the oppressive [Muslim] rulers, if it is possible to remove them without *fitnah* (war), then it is obligatory (*Wājib*); but if it involves *fitnah* (war), then it is obligatory to be patient. And some scholars view that it is not permissible to put a *fāsiq* (oppressor) into rulership if he is as such from the beginning; but if he was put into position while he was righteous, and then later committed oppression - then the scholars have differed regarding revolting against such a (*fāsiq*) ruler, but the correct opinion is that it is

376 "*Sharh An-Nawawī Li-Sahīh Muslim*" (2/229)
377 "*Minhāj As-Sunnah*" (2/241)
378 "*Sharh Al-'Aqīdah At-Tahāwiyyah*" (Pg. 279), publication of "*Al-Maktab Al-Islāmī*", 1404 H.

forbidden (to rebel against him). But as for the ruler committing *kufr*, then it is obligatory (*Wājib*)." [379]

And despite this, Ibn Hazm took the opinion of the generality of the *Hadīths* concerning the Commanding of the Good and the Forbidding of the Evil, and that they abrogate the *Hadīths* which order silence. [380] But he is refuted with the consensus (*Ijmā'*) that is established concerning remaining patient with the tyrannical (Muslim) leaders. And his claim of abrogation is in need of knowledge of the dates (to determine which *Hadīths* came first). And what is correct is the opinion of "the general and the specific" and that the "specific" – and they are the *Hadīths* of being patient with the tyrannical leaders – are put ahead of the "general" – and they are the generality of the *Hadīths* that order the Commanding of the Good and the Forbidding of the Evil, according to the rules (derived from *Islāmic*) principles.

Sixthly: The author of the book "*Al-Bay'ah Bayn As-Sunnah Wal-Bid'ah*" narrated broken words from *Shaykh Al-Islām* Ibn Taymiyyah, as he extracted only that which supports his opinion, which is that these covenants (*'Uhūd*) are invalid innovations (*Bid'ah*), and he left out the words of *Shaykh Al-Islām* which contradict his opinion. And the author was not satisfied with merely using that which he desired and leaving that which he desired (to leave out) from the words of Ibn Taymiyyah. Rather, he went beyond this, as the author altered the quote from *Shaykh Al-Islām*, by omitting and adding, in order to give the reader the false impression that *Shaykh Al-Islām* objected to the people forming covenants (*'Uhūd*) and their agreeing upon helping (one another) in Righteousness (*Birr*) and Piety (*Taqwā*). And this distortion in narrating the verdicts (*Fatāwā*) of the scholars (*'Ulamā'*) is in no way from a trustworthy (*Amānah*) knowledge (source).

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[379] Refer to "*Fat'h Al-Bārī*" (13/7-8). **Trans. Note:** See how the scholars of the *Salaf* differentiated between revolting against a Muslim oppressor, and between a *kāfir Tāghūt* ruler.
[380] "*Al-Muhallā*" (9/362)

As the author narrated in (Pg. 36) of his book, some words of *Shaykh Al-Islām*, from Volume 28, pg. 18, and he altered them by omissions and additions, so that he could subjugate it to his opinion. And *Shaykh Al-Islām* was speaking about the *Ta'assub* (blind loyalty) of students towards their teachers by means of 'tightening the middle' [381] and such things - so he prohibited that.

Ibn Taymiyyah said, "So if the intention with this tightening (*Shadd*) and affiliation is to help (one another) upon righteousness (*Birr*)…" but the author wrote this sentence like this: *"In that if their intention with this pact (Ittifāq), affiliation, and Bay'ah, is to help (one another) upon righteousness (Birr)…"* And as you can see, the author inserted the word ***"…Bay'ah…"*** within the words of Ibn Taymiyyah, in order to support his opinion. So he attributed to Ibn Taymiyyah (may Allāh be merciful to him) that which he did not say. And likewise, (he also removed) the word **"…tightening (*Shadd*)…"** and he put in its place the word ***"…agreement (Ittifāq)…"***.

And Ibn Taymiyyah said, "…then Allāh and His Messenger have (already) commanded this, to him and others (as well) without this tightening (*Shadd*)…" But the author wrote it like so: "…then Allāh and His Messenger have (already) commanded this, to him and others (as well) without this pact (*Ittifāq*)…" So the author omitted the word **"…tightening (*Shadd*)…"** and added the word ***"…pact (Ittifāq)…"***.

Likewise, the author narrated on (Pg. 37) of his book, that *Shaykh Al-Islām* (may Allāh be merciful to him) said, "It is not (permissible) for anyone to form a covenant (*'Ahd*) upon anyone, (agreeing) that he (the follower) will comply with whatever he (the leader) desires. and to ally himself with those who ally themselves with him, and to take as enemies whoever takes him as an enemy. Rather, whoever does this, then he is from the type of Genghis Khan and the likes of him; those who take whoever complies with them as a

[381] **Trans. Note:** An expression, which means to secure unconditional loyalties and absolute allegiance.

supportive friend, and those who oppose them as a rebellious enemy." [382]

And this narration also deceives the reader into thinking that *Shaykh Al-Islām* objected to the people forming covenants (*'Uhūd*) upon acts of righteousness (*Birr*). But the truth is that the aforementioned words of *Shaykh Al-Islām* were mentioned within the presentation of his answer to a question, in which (the following) came, "And is it for a novice to stand in the midst of a group of teachers and learned people and say, 'O group of goodness, I ask Allāh, the Most High, and I ask you, to request from so-and-so to accept me that I be to him a brother, or a companion, or a servant, or a student, or the likes of that.' And then someone from the group stands up and takes the covenant (*'Ahd*) from him and stipulates upon him whatever he wants, and he 'tightens his middle' with a sash or something else. So is this action allowed or not?" [383]

So *Shaykh Al-Islām* answered by clarifying that which was not allowed from this, and it is the 'tightening of the middle' and blind loyalty to the teacher, in both Truth and falsehood, and that is what the author of the book, "*Al-Bay'ah*" narrated. And likewise, *Shaykh Al-Islām* clarified that which is allowed from this, and it is that the covenant (*'Ahd*) is allowed between the teacher and the student and he (even) mentioned a (recommended) phrasing of this covenant (*'Ahd*), and it is what the author of the book "*Al-Bay'ah*" didn't mention. Because if he narrated this portion from the response of *Shaykh Al-Islām*, it would have annihilated his book from its foundation. And the People of Knowledge narrate that which is for them and against them. *Shaykh Al-Islām* (may Allāh be merciful to him) said about the covenant (*'Ahd*) between the teacher and his student, "But it is good if he mentions to his student, 'Upon you is the covenant (*'Ahd)* of Allāh and His *Mīthāq,* and that you ally yourself with those who ally themselves with Allāh and His Messenger, and that you take as enemies, those who take Allāh and His Messenger as enemies. And you must assist each other in

[382] Vol. 28/16
[383] "*Majmū' Al-Fatāwā*" (28/7-8)

(matters of) Righteousness (*Birr*) and Piety (*Taqwā*) and do not cooperate in sin and transgression. And if the Truth (*Haqq*) is with me, then support the Truth (*Haqq*). And if I am upon falsehood (*Bātil*), then do not support falsehood (*Bātil*).' So whoever complies with this, then he is from amongst the *Mujāhidīn* in the Path of Allāh, the Most High; those who desire for the Religion (*Dīn*) to be completely for Allāh, and for Allāh's Word to be supreme." [384]

And I had mentioned these words of his before, within, *"The Legitimacy of This Covenant ('Ahd) In the Sharī'ah,"* so review it there.

And here is a subtle benefit: And it is that the answer of *Shaykh Al-Islām* concerning the permissibility of the covenant (*'Ahd*) and the prohibition of switching from one teacher to another without any (legitimate) reason. And it (also) relates (specifically) to the military training, as the question was about a teacher of archery and his student. It was narrated within the question, "And if a man teaches another man archery and swordsmanship or other than that from the equipment of war and *Jihād* in the Path of Allāh, the Most High, and he rejects his teachings and he switches to other than him (i.e. to another teacher) – Is he sinful for that or not?" [385] So he (may Allāh be merciful to him) responded with what has passed, clarifying that which is allowed and that which is not allowed.

And *Shaykh Al-Islām* (may Allāh be merciful to him) mentioned in multiple places, that which shows the permissibility of the covenants (*'Uhūd*) between the people, upon the acts of obedience. And he clarified which stipulations are allowed and not allowed in these covenants (*'Uhūd*). And I have mentioned his discussion about this matter in the topic: *"The Benefit and Objective of this Covenant ('Ahd)"*, especially his statement, "And the things which Allāh has made obligatory upon the slave; He might have obligated it originally, such as His obligation of Faith (*Īmān*) and *Tawhīd* upon every person. And He might have obligated it because the slave obligated it upon himself. And if it weren't for that (i.e. the slave's making it obligatory upon himself), then Allāh would not have

[384] "*Majmū' Al-Fatāwā*" (28/21)
[385] "*Majmū' Al-Fatāwā*" (28/7)

obligated it, such as the fulfillment of the personal vow (*Nathr*) upon the recommended deeds (*Al-Mustahabbāt*), and also what he places upon himself from the permissible contracts (*'Uqūd*), such as sales, marriage, divorce and the likes of that, as they were not (originally) obligatory (*Wājib*). And Allāh might have obligated these for both reasons, such as the Pledge of Allegiance (*Bay'ah*) of the Messenger upon listening and obeying (*As-Sam' Wat-Tā'ah*) him. And similarly, the *Bay'ah* to the leaders of the Muslims, and like the contracts between the people upon the performance of that which Allāh and His Messenger have commanded." **[386]**

So he (may Allāh be merciful to him) mentioned that, "… the contracts between the people upon the performance of that which Allāh and His Messenger have commanded," - it is obligatory (*Wājib*) upon them to perform them, due to both matters; due to its obligation within the (*Islāmic*) Legislation originally, and also due to its obligation through the formation of contracts and covenants upon them. So what words are clearer than these!?

And he mentioned in the stipulations that this applies to "… the contracts of the *Shaykhs* and the contracts of those with whom they have formed (a bond of) brotherhood," **[387]** - and this has preceded.

Seventhly: And as for that which the author of the book "*Al-Bay'ah*" narrated from Abū Nu'aym in "*Al-Hilyah*", concerning Mutarrif Ibn 'Abdillāh rejecting the likes of those words which they presented to him - then (it should be made known that) the words which they wrote are indeed false and worthy of being rejected. This is because they resemble that which Ibn Taymiyyah (may Allāh be merciful to him) objected to, regarding the supporting (each other) whether rightfully, or wrongfully. As they said, *"And whosoever is with us, then we are (with him) and we help him; and whosoever contradicts us, then our hand is against him…"* This is wrong and false – Rather, it would have been proper for them to have said, "And whoever is upon the Truth, we support (him), and whoever contradicts the Truth, then our hand is against him." So

[386] "*Majmū' Al-Fatāwā*" (29/345-346)
[387] "*Majmū' Al-Fatāwā*" (35/98)

their stipulation contradicted the Book and the *Sunnah*, so it is not allowed to form a covenant (*'Ahd*) upon it.

But as for the author desiring to use the rejection of Mutarrif against this covenant (*'Ahd*), as an evidence for the invalidity of the very basis of covenants between the people, then this does not hold up after what I mentioned in "*The Legitimacy of This Covenant ('Ahd) In the Sharī'ah*", of the evidences from the Book, the *Sunnah* and the history (*Sīrah*) of the Companions (*Sahābah*). So how could an action from one of the *Tābi'īn* (Successors to the Companions) – even if the use of this as evidence was valid in the first place – stand up in the face of these evidences?

And if the statement of a Companion (*Sahābī*) can be rejected if it contradicts the Book and the *Sunnah*, then how about an action from one of the *Tābi'īn*!? [388] And I have (already) mentioned that the phrasing of the covenant which was presented to Mutarrif was false (anyway), and it is possible to interpret his (i.e. Mutarrif's) rejection from this angle.

And it suffices us that the author of the book "*Al-Bay'ah*" did not find any evidence from the *Qur'ān*, nor the *Sunnah,* nor the sayings of the Companions (*Sahābah*), nor their history (*Sīrah*), to support his opinion. So he sought refuge in one action from one of *Tābi'īn*, which is subject to (various) interpretations (anyway). But this was not sufficient for him, so he sought refuge by altering the words of Ibn Taymiyyah (may Allāh be merciful to him), by omitting, adding and concealing, in order to support his opinion.

And no one should understand from my aforementioned words that I reject using the statements of the *Tābi'īn* as evidence. Rather, I believe that they can be used as evidence, as long as they do not contradict anything from the Book (*Qur'ān*), the *Sunnah*, or a statement of a Companion, or another *Tābi'ī*. So how about when the statement of Mutarrif, in this case, contradicts the evidences which I mentioned in "*The Legitimacy of This Covenant ('Ahd) In the*

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[388] Refer to "The Ruling Upon the Statements of the Companions", in "*I'lām Al-Muwaqqi'īn*", by Ibn Al-Qayyim (4/118) and what follows it.

Sharī'ah"? This is if his words are understood as an objection to the entire covenant absolutely (and not merely just a rejection of the contents of the stipulations written to him).

And concerning the usage of the statements of the *Tābi'īn* (as evidence), Ibn Al-Qayyim said, "The Predecessors (*Salaf*) disagreed concerning that, as there were those who said, 'It is obligatory (*Wājib*) to follow the *Tābi'ī* in whatever he issues as a legal verdict (*Fatwā*), as long as he is not contradicted by a Companion or another *Tābi'ī*.' And this was the opinion of some of the Hanbalīs and the Shāfi'īs, as (*Imām*) Ash-Shāfi'ī (himself) clearly stated in one instance, that he said something out of *Taqlīd* to 'Attā'. And this was (a sign of) the perfection of his knowledge and comprehension (*Fiqh*) - may Allāh be pleased with him - as he did not find in the issue, (anything) other than the statement of 'Attā'. So his (i.e. 'Attā's) statement, according to him (Ash-Shāfi'ī), was the strongest thing he found concerning this issue…" [389]

I say: And concerning the issue of using the statement of a *Tābi'ī* as evidence, there are other discussions, such as what to do when the statements of (some of) the *Tābi'īn* differ (in an issue), and also (what to do) when a statement of a *Tābi'ī* contradicts the juristic analogy (*Qiyās*). So the books of principles (*Usūl)* should be referred regarding this.

And there are other statements, which the author of the book "*Al-Bay'ah Bayn As-Sunnah Wal-Bid'ah*" mentioned, which require a refutation and a clarification of his errors in it - but I will turn away from this, due to its irrelevance to our topic. And an example of this was his claim on (Pg. 40) that the Predecessors (*Salaf*) rejected any matter which was not narrated in its precise manner in the Book and the *Sunnah* - and there is no doubt that this is a fabrication upon the Predecessors (*Salaf*), as the majority of the Predecessors (*Salaf*) recognized the consensus (*Ijmā'*) and the juristic analogy (*Qiyās*) [as evidences], after the Book and the *Sunnah*. And this statement of his, "in its precise manner (*Bi-Kayfiyyatihi*)" was not

[389] "*I'lām Al-Muwaqqi'īn*" (4/156)

even claimed by the extremists of the *Thāhirī* [390] school of thought (*Math'hab*), which many of the Predecessors considered to be an innovation (*Bid'ah*). [391] And like his statement that the *Bay'ah* is void if the People of *Al-Hall Wal-'Aqd* do not come together and form the contract of governance (*Imāmah*) to the one who fulfills all its conditions. [392] And this statement, in its generalization, is a mistake, because the contract of the People of *Al-Hall Wal-'Aqd* is (merely) one of the methods of forming the contract of governance (*Imāmah*). Because there is (for example), the authority being handed down from the previous *Khalīfah*, (called) "*Al-Istikhlāf* " [lit. Succession]. And (then) there is (also) the taking over and the conquering; and whoever takes over and is called "*Amīr Al-Mu'minīn*" - then it is not allowed for anyone who believes in Allāh and the Last Day, to pass the night and not recognize him as "*Amīr Al-Mu'minīn*", as Ahmad Ibn Hanbal said. [393]

This is what concerns the refutation upon the doubts of the author of the book "*Al-Bay'ah Bayn As-Sunnah Wal-Bid'ah*". And I did not refute them except to remove the deception which some might be misled by, by reading the likes of that book, at a time when we are in the greatest need for the contracts (*Ta'āqud*) and covenants (*Ta'āhud*) amongst the Muslims, upon intensified promises for the sake of giving victory to the Religion of Allāh and rescuing the oppressed ones from the men, women and children, until there is no more *fitnah*, and the Religion will all be for Allāh (in the whole of the world) - as our Lord loves and is pleased with.

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390 **Trans. Note:** The *Thāhirī* School (*Al-Math'hab Ath-Thāhirī*) was based upon the notion that the texts of the *Qur'ān* and *Sunnah* must be interpreted literally in every case, based upon its outward, apparent (*Thāhir*) meaning or implications. From among their most famous scholars, was Ibn Hazm, may Allāh be merciful to him.

391 Refer to "*Al-'Itisām*" (1/71), by Ash-Shātibī, publication of 1402 H.

392 Pg. 22

393 Refer to "*Al-Ahkām As-Sultāniyyah*" (Pg. 20, 23), by Abū Ya'lā.

Refutation upon another doubt:

Shaykh Muqbil Ibn Hādī Al-Wādi'ī, (who is) from the *Ahl As-Sunnah* in Yemen, mentioned in his book, "*Al-Makhraj Min Al-Fitnah*" [394] within his refutation of the same group which the author of the book "*Al-Bay'ah*" spoke about; *Shaykh* Muqbil said, "Is it possible that the *Bay'ah* could be valid to an unknown (person), when it is not known whether he is righteous or unrighteous, a scholar or an ignorant, a *Qurashī* or a non-*Qurashī*, a courageous man or a coward?!" [395]

I say: So is it permissible for a Muslim to give *Bay'ah* to an *Amīr*, if he does not know him specifically, nor his name?

The answer: Both authors of "*Al-Ahkām As-Sultāniyyah*" [396] agreed upon the permissibility of this, and that it is not necessary for every single Muslim to know the *Imām* specifically and by name; Rather, it is only necessary for the People of *Al-Hall Wal-'Aqd*, those, by whom the argument (*Hujjah*) is established. And as for that which is necessary upon the rest, then it is they should know that the *Khilāfah* has been given to one who is worthy of it.

Al-Māwardī said, "Chapter: Then if the *Khilāfah* settles with the one who takes charge if it, either by being assigned (i.e. appointed from its former possessor, i.e. the former *Khalīfah*) or by selection (by the People of *Al-Hall Wal-'Aqd*), then it is upon the rest of the nation (*Ummah*) to know that the *Khilāfah* was granted to one who was worthy with his characteristics. And it is not necessary for them to know him specifically or by identity, except for the People of Selection, those by whom the argument (*Hujjah*) is established. And with their *Bay'ah*, the contract (*'Aqd*) of the *Khilāfah* is granted. And Sulaymān Ibn Jarīr said, 'It is obligatory (*Wājib*) upon all the people

[394] Pg. 68, publication 1403 H.
[395] And he repeated this in the footnote on Pg. 98.
[396] Al-Māwardī and Abū Ya'lā

to know the *Imām* specifically and by name, just as it is upon them to know Allāh and to know His Messenger.' **But what the majority of the people are upon, is that the knowledge of the *Imām* is necessary upon the rest of the people in general, not specifically,** [397] **and it is not upon every person to know him specifically and by identity, except in those situations which require that, just like the knowledge of the judges (*Qudhāt*) with whom the rulings are made and the jurists (*Fuqahā'*) who issue legal verdicts (*Fatāwā*) regarding the lawful (*Halāl)* and the unlawful (*Harām*). This is necessary upon the public population in general, and not specifically, except in those situations in which they (i.e. the judges and jurists) are needed.** And if it were a necessity upon each and every individual of the *Ummah* to know the *Imām* specifically and by identity, then it would be a necessity to perform emigration (*Hijrah*) to him and it would not be allowed for the distant (communities) to remain behind and this would lead to the desertion of the lands, and goodness would depart and corruption would return." [398]

And Abū Ya'lā said, "And it is not obligatory upon all the people to know the *Imām* specifically and by name, except he who is from the People of Selection, those by whom the argument is established, and the contract (*'Aqd)* of the *Khilāfah* is made." [399]

I say: And from the *Bay'ahs* which took place in this manner, I will mention: The *Bay'ah* of 'Umar Ibn 'Abdil-'Azīz – and he was from the Rightly-Guided Ones, and the *Bay'ah* of the campaign of the 'Abbāsids; as what follows:

1. The *Bay'ah* of the *Khilāfah* to 'Umar Ibn 'Abdil-'Azīz, the Rightly-Guided *Khalīfah*. The *Khalīfah*, 'Abdul-Malik Ibn Marwān, delegated authority to his two sons (to receive the *Khilāfah*) after him (i.e. his death), [400] and then (afterwards), Al-Walīd came to power, and then

[397] **Trans. Note:** Meaning that the general public as a body needs to know him, but not every individual in this body needs to have this knowledge specifically.
[398] Refer to "*Al-Ahkām As-Sultāniyyah*" (Pg. 15), by Al-Māwardī.
[399] Refer to "*Al-Ahkām As-Sultāniyyah*" (Pg. 27), by Abū Ya'lā.
[400] "*Al-Bidāyah Wan-Nihāyah*" (9/57)

Sulaymān. And when Sulaymān was reached (by death), the great *Tābi'ī*, Rajā' Ibn Haywah, suggested to him that he hand over authority to 'Umar Ibn 'Abdil-'Azīz. As-Suyūtī said, "He – Rajā' – said, 'You should leave 'Umar Ibn 'Abdil-'Azīz behind you (as your successor).' He – Sulaymān – said, 'I am afraid that my brothers will not be pleased (with that).' He said, 'Put 'Umar in charge and after him, Yazīd Ibn 'Abdil-Malik. And write a declaration and seal it and call them to his *Bay'ah* (i.e. the one named in the declaration), while it is still sealed.' So he (i.e. Sulaymān) said, 'I consent.' " **[401]**

And Ibn Kathīr said that Sulaymān wrote, 'In the Name of Allāh, the Beneficent, the Merciful. This is a declaration from 'Abdullāh Ibn Sulaymān Ibn 'Abdil-Malik, for 'Umar Ibn 'Abdil-'Azīz. Verily, I have appointed him with the *Khilāfah* after me, and after him, Yazīd Ibn 'Abdil-Malik. So listen to him, and obey him, fear Allāh and do not dispute lest your enemy be tempted (to take advantage of) you.' And he sealed the letter and sent it to Ka'b Ibn Hāmid Al-'Abasī, the chief of police, and said to him, 'Assemble the people of my household, then order them to give *Bay'ah* upon what is in this letter while it is sealed. Then whoever refuses, smite his neck.' So they assembled and some of the men from them entered and gave *Salām* to *Amīr Al-Mu'minīn*. Then he said to them, 'This letter is my covenant to you, so listen and obey and give *Bay'ah* to the one whom I have appointed (as *Khalīfah*) therein.' So they gave *Bay'ah* upon that, man-by-man." – until Ibn Kathīr said – "Rajā' Ibn Haywah said, 'So I turned him to face the *Qiblah* then he died, may Allāh be merciful to him. Then I covered him with a green plush (shroud) and I closed up (his quarters) behind him. And I sent (a letter) to Ka'b Ibn Hāmid, so he gathered the people in the *Masjid* of *Dābiq*. So I said, 'Give *Bay'ah* to the one who is (named) in this letter,' So they said, 'We have given *Bay'ah*.' So I said, 'Give *Bay'ah* a second time.' So they did so, then I said, 'Rise for your companion, as he has died,' and then I read the letter to them." **[402]**

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[401] Refer to "*Tārīkh Al-Khulafā'*" (Pg. 226), by As-Suyūtī.
[402] "*Al-Bidāyah Wan-Nihāyah*" (9/182)

And Rajā' Ibn Haywah, who suggested this to Sulaymān Ibn 'Abdil-Malik, was a great *Tābi'ī*. [403] And Ibn Kathīr said, "And he was a great *Tābi'ī* with great status, a trustworthy, virtuous, just, truthful minister of the *Khalīfahs* of *Banī Umayyah*. And Mak'hūl used to say, when asked, 'Ask our *Shaykh* and our master, Rajā' Ibn Haywah.' And more than one of the *Imāms* praised him and declared him trustworthy in narrating." [404]

2. The *Bay'ah* of the campaign to establish the 'Abbāsid state:

   This campaign was started by Muhammad Ibn 'Alī Ibn 'Abdillāh Ibn 'Abbās, as I mentioned earlier. And they called people to their *Bay'ah*. And the *Bay'ah* was for "*The Approval From the Family of Muhammad* صلى ا عليه وسلم", as so, without any specific identification of the *Amīr* of this campaign. And this was intentional, due to the keenness of the 'Abbāsids in order to enlist the *Shī'ah* of the 'Alawīs, to their campaign. And "the family of Muhammad" includes both the 'Alawīs and the 'Abbāsids, so the one who was given the *Bay'ah*, in this campaign, was an unknown individual to the majority of those who gave *Bay'ah*, with the exception of the chiefs and the major callers, who knew the person of this campaign by name and specific identity. [405] And As-Suyūtī said, "Muhammad, the *Imām*, sent a man to Khurāsān and ordered him to call to '*The Approval From The Family Of Muhammad* صلى ا عليه وسلم', and that he should not name anyone (specifically). Then he sent Abū Muslim Al-Khurāsānī and others, and wrote to the chiefs and they accepted his letters." [406]

   I say: So this is what we were able to (put together), concerning the topic of whether it is allowed to give *Bay'ah* to an unknown. And what becomes apparent from the aforementioned narrations, is that it is permissible, as long as the People of *Al-Hall Wal-'Aqd* know the one who is being given the *Bay'ah*. And Allāh knows best.

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[403] Refer to "*Al-Jarh Wat-Ta'dīl*" by Ibn Abū Hātim (3/501).
[404] "*Al-Bidāyah Wan-Nihāyah*" (9/304)
[405] Look to "*Al-Bidāyah Wan-Nihāyah*" (9/321) & (10/25, 30, 31, 39, 42, 45)
[406] "*Tārīkh Al-Khulafā'*" (Pg. 257)

Also, *Shaykh* Muqbil mentioned words, which signify a forbiddance of joining the *Islāmic* groups. He said in the same book, "Is *Bay'ah* to them necessary? Then the answer is that it is not necessary because it is a condition of the *Imām* that he be a *Qurashī* who is established. And they constantly repeat the *Hadīth*, *'Whoever dies while he does not have a Bay'ah upon his neck - he dies a death of Jāhiliyyah (pre-Islāmic Ignorance).'* This is (true) if there is an *Imām*, but if there is no *Imām* and no satisfactory group (*Jamā'ah*), then the Messenger **صلى ا عليه وسلم** said in the *Hadīth* of Huthayfah, '"But, if they have no group (*Jamā'ah*) and no leader (*Imām*)?'' *'Then avoid all those sects (Al-Firaq)…'* [407] And he repeated the attempt using the *Hadīth* of Huthayfah as evidence on (Pg. 98) of the same book.

And the response to this is that I differentiated beforehand, between the *Bay'ah* of the *Imām* of the Muslims, and the *Bay'ahs* of the acts of obedience amongst the Muslims. As for his (attempt of) using the *Hadīth* of Huthayfah as an evidence (to support his claim), then his attempt is rejected by the *Hadīth* of "*At-Tā'ifah Al-Mansūrah*" and I explained this previously. And (I explained) that this *Tā'ifah* is the People of Knowledge and *Jihād,* and that leadership (*Imārah*) is from the (continuous) characteristics of this *Tā'ifah*, due to the *Hadīth* of Jābir Ibn 'Abdillāh in Muslim - and its presentation has preceded - and that this *Tā'ifah* will never be absent in any era, until the last of them fights *Al-Masīh Ad-Dajjāl* (The False Messiah). And due to that, it is not correct to restrict this *Tā'ifah* to the People of Knowledge only, as An-Nawawī said, in his supplementary additions to the statements of Al-Bukhārī and Ahmad Ibn Hanbal and others, may Allāh be pleased with them all.

Then the *Shaykh* invalidated his own words in multiple places, as he said, in his aforementioned words, "… no satisfactory group (*Jamā'ah*)…" But this means that the avoidance (*I'tizāl*) which is narrated in the *Hadīth* of Huthayfah, is restricted by the presence of the likes of this Satisfactory Group (*Jamā'ah*) [i.e. the Victorious Party] - and this complies with the *Hadīth* of "*At-Tā'ifah Al-Mansūrah*", as I explained previously.

[407] Pg. 68

And *Shaykh* Muqbil also said in his answer to the one who asked him about giving *Bay'ah* to the groups, by saying, "As for (*Bay'ah*) upon Listening and Obeying (*As-Sam' Wat-Tā'ah*) - then no. But as for you forming a covenant (*'Ahd*) with them, and them forming a covenant (*'Ahd*) with you upon *Da'wah* to the Book of Allāh and the *Sunnah* of His Messenger صلى ا عليه وسلم, then I do not see anything to forbid that." [408] And this formation of a covenant (*Mu'āhadah*) upon the acts of obedience which he approved, invalidates his (earlier) usage of the *Hadīth* of Huthayfah as evidence. Therefore, (he has agreed that) the avoidance (*I'tizāl*) which was commanded, is not unrestricted – rather, it is restricted, and that whenever a Muslim finds a party (*Tā'ifah*) which is upon the Truth, then it is (obligatory) upon him to adhere to it and to aid those who support it. As for his objection to Listening and Obeying, he did not mention any evidence for this, contradictory to what he advised the Muslims with, in the end of his book where he said, "Number Five: That you obligate yourself upon never acting (upon something) except with an evidence from the Book of Allāh and the *Sunnah* of His Messenger صلى ا عليه وسلم." [409]

And likewise, *Shaykh* Muqbil advised the Muslims to wage *Jihād* in the Path of Allāh [410] - so we ask him: Is it allowed for the *Jihād* to be established without a leadership (*Imārah*)? And can there (ever) be leadership without the Listening and the Obeying? And I have explained this issue in the third chapter of this treatise, specific to leadership (*Imārah*).

And the *Shaykh* said (other) contradictory words, such as his statement, "And in my view, the student of knowledge should not be tied with any group (*Jamā'ah*). As for the *Da'wah* to the Book and the *Sunnah*, then he should consider himself an individual from amongst the individuals of every single group (*Jamā'ah*) which calls to the Book of Allāh and the *Sunnah* of His Messenger صلى ا عليه

[408] Pg. 68
[409] Pg. 98, from the same book
[410] Pg. 98, from the same book

وسلم." [411] And the contradictions within the book are not something hidden, as he forbade the student of knowledge from belonging to a group, then he advised him to be in every group.

And he also said that he and his brothers, from the People of Knowledge, called themselves "*Ahl As-Sunnah*", in order to differentiate themselves from others - then he clearly stated that they are a group (*Jamā'ah*). He said, "As for '*Ahl As-Sunnah*', then they are a group (*Jamā'ah*) which held it upon themselves to act upon the *Sunnah* of the Messenger of Allāh **صلى ا عليه وسلم** …" – until his statement – "… and they have no president (for the group), because they say, 'Our president is the president of the state, as long as he is a Muslim,' and they do not have any *Amīr*, but rather, they say, 'We shall hold council concerning the steering of the *Da'wah* and we shall be compliant and we shall not dispute." [412] And the contradiction between his statement, "Our president…" and his statement, "… and they do not have any *Amīr*," is not hidden. And also, the contradiction between his statement, "Our president is the president of the state…" and his advice to the questioner not to form a covenant (*'Ahd*) with anyone upon listening and obeying, is not hidden, because his acceptance of the basic principle of presidency upon himself and upon those who are with him, is (in and of itself) an approval of the Listening and Obeying to this president. And the contradiction between his statement, "Our president is the president of the state…" and his statement, "… it is a condition of the *Imām* that he be a *Qurashī* who is established…" - is not hidden. And (at the same time) we do not reject his (i.e. *Shaykh* Muqbil's) virtue and his efforts in spreading the *Sunnah*.

And this was what was possible to be written about the topic of the covenants (*'Uhūd*) amongst the Muslims upon the acts of obedience, which I entered beneath the chapter: "**The Oath of the Military Training Camp**", to clarify the legitimacy of this in the *Sharī'ah,* along those issues which are related to it.

[411] Pg. 69, from the same book
[412] Pg. 70, from the same book

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And many more to come, if Allāh permits…